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Bosnia and Herzegovina:

Compliance with obligations and commitments and implementation of the post-accession co-operation programme

Document presented by the Secretary General

Twelfth Report (November 2005–May 2006)

Executive summary

During the period under review, Bosnia and Herzegovina has made some noticeable progress in the strengthening of State institutions, with the adoption of a substantial defence reform and with the adoption of the unified Ombudsman structure, which should guarantee more coherent and enhanced human rights protection State-wide. Other positive steps in the human rights and rule of law fields include a better functioning system of war crimes prosecution and trials and a more efficient BiH Court and BiH Prosecution Office, albeit with a limited mandate and scope.

Another important achievement has been the opening of Stabilisation and Association Agreement (SAA) negotiations with the EU, which has given Bosnia and Herzegovina (BiH) a certain boost and self-confidence in its path towards further integration in Euro-Atlantic institutions. As part of this process, an important constitutional reform package has been discussed in record time and submitted for parliamentary procedure, giving a new impetus to the work of the BiH Parliament as the country's key forum for constitutional reform.

With respect to the overriding commitment of strengthening State institutions, progress remains limited. When it comes to far-reaching advances, such as the adoption of the constitutional amendments needed to ensure compliance with international standards and move the country forward, the political leadership could not live up to the expectations of the majority of its population. This would require a departure from short-term, ethnic-based prevailing political agendas and a move towards longer-term, country-wide ambitions in order to place the key reforms needed at the core of BiH politics. The forthcoming election period will probably not be very propitious in this respect.

The political will and leadership required is all the more essential, as BiH is set against a difficult backdrop of a complex regional situation – notably following Montenegro's independence – a dire economic situation and high unemployment, adversely affecting social cohesion and inter-ethnic relations and the sustainable return of internally displaced persons (IDPs). In this context, the role of the international community might benefit from a shift in focus, with increased attention on the more vulnerable parts of society, which include areas where returnees and refugees lack proper integration.

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I. INTRODUCTION

1. Bosnia and Herzegovina (BiH) joined the Council of Europe on 24 April 2002, following the adoption of Parliamentary Assembly Opinion No. 234 (2002), which lists a series of commitments to be met by BiH following accession, in accordance with an agreed time-table. The issue of full co-operation with the International Criminal Tribunal for the former Yugoslavia (ICTY) and the transfer of all war indictees were the subject of an exchange of letters between the Chair of the CoE Committee of Ministers and the BiH authorities prior to accession.

2. On joining the CoE, BiH accepted to be submitted to a specific monitoring procedure under the authority of the Committee of Ministers and benefited from a programme of co-operation in order to assist in the fulfilment of its obligations and commitments. This monitoring procedure is based on 6-monthly public reports by the Secretariat, examined by the Rapporteur Group on Democracy, under the authority of the Committee of Ministers.

3. The present report is based, *inter alia*, on information gathered during a visit by a Secretariat delegation, from 22 to 26 May 2006 (the programme of the visit is reproduced in Appendix I), and regular information from the Special Representative of the Secretary General in Bosnia and Herzegovina. The Permanent Representative of BiH to the CoE, Ambassador Maric, who took part in the visit, contributed to the efficient organisation of the programme.

II. POLITICAL CONTEXT

4. The Secretariat delegation's visit took place shortly after the BiH Parliament had rejected a package of constitutional reforms and immediately after the referendum on the sovereignty of Montenegro. These two factors largely influenced the discussions and have had a direct impact on the political landscape in BiH.

5. Following accession to the CoE, the latter oriented its action towards two main strategic objectives:

- to reinforce the State structures and
- to develop ownership by the domestic authorities and to progressively reduce the role of the international community, in particular the power of the High Representative to impose legislation and remove political leaders from office – known as the “Bonn powers”.

6. Developments in BiH, in the fulfilment of its obligations and commitments with the CoE, should be assessed against the background of these strategic objectives. Recent political and institutional developments in BiH have not produced any significant progress in this direction.

7. It should be recognised that BiH has made significant progress in the implementation of the formal obligations and commitments accepted when joining the CoE. Most Conventions have been ratified (with the significant exception of the European Charter for Regional and Minority Languages), a large number of laws have been adopted and institutions created, and the Ombudsman institution has been unified at State level. The

reform and unification of the military forces, the creation of a taxation system at State level and the creation of a State-level intelligence service are among the main achievements of BiH. However, there are still major deficiencies as regards the practical implementation of these reforms, many of which were imposed or adopted under pressure of the international community.

8. In addition, major political commitments remain in abeyance. These concern in particular:

- the constitutional reform, including the revision of those provisions which the Venice Commission considered to be in contradiction with the European Convention on Human Rights and its Protocols, notably Protocol No. 12;
- full and unconditional co-operation with the ICTY and the arrest of all war criminal indictees;
- the implementation of the self-government reform, in both Entities, in line with the European Charter for Local Self-Government;
- the reform of the education system, at all levels, to put an end to all forms of segregation in the education system.

9. Since the last monitoring report, one of the most significant political events in BiH was undoubtedly the start of negotiations on a Stabilisation and Association Agreement (SAA) with the EU. These negotiations are, of course, still ongoing. However, the possibility of suspending or freezing negotiations should not be ruled out, should there be insufficient co-operation with the ICTY or non-implementation of some important reforms already agreed in principle, such as the reform of the police.

10. Seen from the viewpoint of ownership and consolidation of State institutions, three topical issues deserve particular attention: the constitutional reform (see Chapter III.A), the reform of the police (see Chapter V.C) and the reform of the education sector (see Chapter VI). On these three major issues, which directly concern commitments with the CoE, unfortunately - and in spite of strong pressure from the international community - progress is very slow. The limited constitutional reform, aimed at improving the efficiency of the State institutions without affecting the principles of the Dayton Peace Agreement (in particular, the ethnic concept of the institutions), failed in the Parliament of BiH by two votes. The majority of the Croat Members of Parliament voted against the constitutional package. On police reform, the Republika Srpska (RS), after accepting the principles of the reform, is currently blocking any implementation measure that would threaten existing Entity competence, which is seen as a first step in the dismantling of the Serb Entity. On the reform of education, and in spite of the administrative unification of the Mostar Gymnasium, no progress has been registered as regards the problem of the more than 50 "two schools under one roof" and all forms of discrimination in the education sector. As concerns the Higher Education Law at State Level, the constituent peoples' interests are unable to agree at which level accreditation of the Higher Education institutions should occur – State, Entity or Canton - and the future of the current draft looks uncertain at present.

11. All these elements confirm the lack of willingness of the political leaders, at all levels, to make the necessary concessions which are indispensable to consolidate the State institutions of BiH. The capacity of the local political leaders, to adopt the necessary

compromises would strengthen their position against the “interventionism” of the international community. The electoral campaign, prior to the 1 October general elections, will probably not favour more dialogue and more flexibility between the different political forces. According to all observers, these forthcoming general elections may see a consolidation of the power of the ethnic-based political parties. However, recent electoral reform is likely to reduce the number of parties represented in Parliament, which should facilitate the emergence of a stable majority. Whether the new Parliament and the new Government will be able to tackle the too long-awaited indispensable reforms and assume the responsibility of their decisions, remains to be seen. However, efficient State-level institutions and local ownership of decisions remain vital to BiH’s attainment of its strategic objectives, both in respect of the CoE and in wider Euro-Atlantic integration.

12. A shower of declarations from RS political actors, following the Montenegro independence referendum, has invaded the political scene in BiH, such declarations being based on a call to apply independence criteria evenly throughout the region, therefore also in the RS. The international community has condemned such declarations, for their highly destabilising character, at a moment when the country needs to focus on its rather complex consensus search on the constitutional reform package.

13. Certainly, the political context above cannot be isolated from the difficult economic situation the country is facing and in particular from the high unemployment rates, which strongly affect the young population and the unskilled. Investments in the country are still at an insufficient level for a stable job creation effect.

III. DEMOCRATIC INSTITUTIONS

A. Strengthening and functioning of democratic institutions

1. Role of the international community

14. The newly-appointed High Representative has begun the phasing-out strategy and has made clear that resort to “Bonn powers” will be circumscribed only to maintain peace and stability or to further BiH’s co-operation with ICTY. On key democratic processes, such as the holding of the October elections, the Office of the High Representative (OHR) will not provide the safety-net that used to accompany previous electoral processes in the country. Furthermore, in the areas of education, human rights and justice, the OHR and the Organisation for Security and Co-operation in Europe (OSCE) have established a Working Group to co-ordinate their activities. This has generated some discomfort, in particular as regards the CoE’s role in this context and the pivotal role of the European Convention on Human Rights (ECHR), as well as other European Conventions, as the prime reference for legal and human rights reforms in BiH.

15. During its mission, the Secretariat delegation heard very contradictory statements concerning the desired/ideal role of the international community in BiH, ranging from outright rejection in favour of total and full ownership by the BiH and Entity authorities, to calls for a continued international presence in all the difficult areas of constitutional and in particular judiciary reforms.

2. *Constitutional reform*

16. The role of the international community has indeed been quite crucial in spurring the debate on possible constitutional amendments, starting with the release of the Venice Commission opinion in local languages, in March 2005, to the more active facilitator role played by US circles in the final stages of the elaboration of the reform package. The proposed amendments focused on:

- replacing the current three-member rotating Presidency with a single one (with two deputies) indirectly elected;
- adding two ministries at State level and reinforcing the competencies of the Council of Ministers;
- increasing the number of Members of Parliament in the House of Representatives (from 42 to 87, with for the first time three seats reserved for members of non-constituent peoples) and increasing the number of members in the House of Peoples (from 15 to 21) and reducing its competence to Vital National Interest matters only;
- increasing the competencies of the State level, especially with respect to European integration.

17. In spite of the agreement reached by 7 political parties, the House of Representatives failed to adopt the package on 26 April. Two main parties voted against: the “Club of representatives of Croatian People”, for fear that the reform would undermine the constitutional position of Croat interests, particularly vis-à-vis the RS and the “Party for BiH”, which felt that the reforms did not go far enough and had the effect of entrenching the Dayton *status quo*. Whilst there seemed to be widespread agreement on the fact that, having elaborated the package in record time when there was no expectation on a possible debate on constitutional reform was in itself a sign of a maturing political class, positions diverged on the follow-up to be given to the whole process.

18. When meeting with Members of Parliament (both Houses), the Secretariat delegation had the clear impression that constitutional reforms were, for the first time, debated in an open and substantial fashion, giving renewed credibility and strength to a key State-level institution such as the Parliament. Although no clear prospect of an early agreement for re-submission of the package is in sight, Members of Parliament all seemed to agree on the need for reform of Dayton and for it to happen in a transparent, open and carefully-timed way. There seems to be some prospect of the existing but rejected package of reforms being reintroduced into parliamentary process, at the very beginning of the new Parliament, following the October elections. International interlocutors insisted on the importance of keeping all the issues in the package on the BiH political agenda, some even suggesting a “partial implementation” of the less controversial provisions in the area of human rights and administrative streamlining.

3. *Reinforcing BiH statehood, reform ownership and integration into Europe*

19. The successful adoption of the defence reform is clearly a step in the right direction, showing how the development of common, State-wide institutions can also accommodate tailor-made arrangements to ensure the preservation of some specific traditions. Whilst the implementation of the defence reform is a tangible sign of a strengthened State institutions,

the overriding commitment of “reinforcing BiH statehood” is yet to be fulfilled. The current political landscape is still basically Entity-oriented and/or constituent-people driven. A critical mass of competencies and functions, to be exercised at State level, is still to be secured before political discourse and political action becomes truly State-relevant. In order to reach that point BiH has to solve two dilemmas:

- the first is the strengthening of State institutions, on the one hand, and the gaining of ownership over its European destiny, on the other. It seems, however, increasingly difficult to achieve both simultaneously, as the former cannot be secured without a strong dose of intervention by the international community;
- the second is the opposing logics of, on the one hand, the “constituent people” basis of its legal and societal structures and, on the other hand, the requirement of building genuine European institutions based on a citizenship rather than an “ethnic” approach.

20. For the moment, these two dilemmas are still consuming the political energies of the country, instead of working towards the solution of the basic problems of the country and its people.

21. The SAA process provides for a very good yardstick of the country’s determination to implement reform, in particular the fulfilment of the CoE’s commitments which are part of the SAA’s conditionality. Technical work seems to be conducted by able institutions and professionals. However, the European Commission keeps insisting on the need to secure firm political commitments of BiH leadership, in the sensitive areas of police reform implementation (see below) and Public Broadcasting System (PBS), in order to speed up the negotiations.

4. *Elections*

22. The State Electoral Commission has fixed the date of the next parliamentary elections as 1 October 2006. The electoral legislation has already been assessed, by the Venice Commission, as in keeping with international standards. However, because of the failed adoption of the constitutional reform package, the changes foreseen for the election of the House of Representatives and the House of Peoples will not occur. As a result, the shortcomings, identified by the Venice Commission Opinion of March 2005, will be perpetuated: direct discrimination against a large number of citizens in the electoral provisions and excessive powers to collective presidency and the House of Peoples, to the detriment of the Council of Ministers and the House of Representatives.

23. As regards preparations for the forthcoming elections, the CoE, if so required, would be willing to provide some assistance concerning media and party financing during the election campaign period.

5. *Development and functioning of local democracy*

24. At the State level, note should be taken of the fact that the European Outline Convention on Transfrontier Co-operation and its Amending Protocols have not yet been ratified, the deadline having expired two years ago. Local democracy continues to follow different developments in the two Entities.

25. In the Federation of Bosnia and Herzegovina (FBiH), a Law on the Principles of Local-Self Government has been adopted. However, the constitutional amendments to the Federation Constitution, necessary for its full implementation, were rejected in the House of Peoples by the Croat representatives who want to keep the existing prerogatives at Canton level. This leads to the impossibility to apply the Law on Local Self-Government, which had been prepared with the assistance of the CoE.

26. In the RS, there has been some transfer of ownership of utilities and property issues to the local authorities. However, the local municipalities and towns are still with insufficient competences, compared with European standards.

27. From 13 to 17 February, a delegation of Rapporteurs of the Congress of Local and Regional Authorities of Europe accompanied by a representative of the Secretariat, visited representatives of local and central government, NGOs and other interest groups, in preparation of their report on local and regional democracy in Bosnia and Herzegovina. Their report is expected to be presented at the autumn Session of the Congress. In April, the Secretariat, in partnership with the RS Association of Local Authorities and the Association of Local Authorities of the FBiH, launched a new project aimed at building the capacity of the Associations of Local Authorities of BiH, to deliver quality services to their members and various partners.

B. Civil society – role of religious communities

28. Civil society and leaders of religious communities should play a crucial role to promote reconciliation and confidence-building. Whilst a certain “ethnicisation” of civil society and NGOs is still the dominant feature in the country, some NGOs, notably in the human rights field, are present in the two Entities, as no real obstacles exist to work across the inter-Entity line. However, as the great societal challenges facing the country today (unemployment - notably of youth, poor health and social care, reconciliation) do not find adequate responses at State level, NGOs are confronted with needs and demands they cannot cater for. Furthermore, the donor-driven pattern that characterised NGO work in the years following the conflict has now changed into a search for self-sustainable associations and organisations. This situation has led to the disappearance of many NGOs, in particular in the humanitarian area, leaving a worrying vacuum, notably in the social and health fields.

29. Specific mention should be made of the role of religious communities in the country. Whilst certainly still providing an important spiritual and moral guide, their presence and impact on society and institutions needs to be better defined. A clearer legal framework is needed both in terms of real estate and property ownership and, more importantly, of relations to secular institutions, notably in the sensitive area of education.

30. During their meeting with the Secretariat delegation, representatives of the leaders of the religious communities all agreed on a number of fundamental tasks they believe need to be jointly tackled by all

- first and foremost, they called for the establishment of a “truth and reconciliation” commission for BiH, as the only way to face the past together and to stop living in “three different histories”;

- they also invoked the European perspective for BiH and the need to strengthen the State institutions, in order to build a stable country that would be able to take care of the needs of its citizens;
- finally, they referred to the increasing apathy of young people, due to the limited opportunities their country has to offer to them today and to the need to create opportunities for a more active involvement of youth in the political life of BiH.

31. In this context, the likely re-start of a new “School of Political Studies” in BiH should be seen as a welcome development.

IV. HUMAN RIGHTS

A. Council of Europe conventions in the field of human rights

1. ECHR: “Compatibility Exercise” and Government Agent

32. After a long period of inactivity and uncertainties, about the composition of the national working group on compatibility with ECHR, the process of drafting the compatibility report has been re-launched. The members of the partially-reconstituted working group agreed to the proposed method and a new division of responsibilities.

33. The Government Agent has been appointed and the process of locating and appointing the Secretariat is about to commence. This will alleviate a potential obstacle to BiH’s ability to co-operate fully with the European Court of Human Rights.

2. European Social Charter

34. One of the few outstanding commitments undertaken upon accession, the ratification of the revised European Social Charter, is yet to be honoured.

3. Protection of national minorities (the “Others”)

35. In Bosnia and Herzegovina, there is the problem of the structural exclusion of minorities known as “Others”¹. There is an absence of comprehensive anti-discrimination legislation in Bosnia and Herzegovina, both at State and Entity level.

36. The Law on the Protection of National Minorities, which is based on the Framework Convention on the Protection of National Minorities, entered into force in 2003 and some amendments were made to the law in 2005. The law, however, has not been fully applied because the political parties in power have been unable to agree on the bye-laws necessary for its implementation. For the first time, the package of constitutional reforms, which failed to be adopted by the BiH Parliamentary Assembly, included provisions to allow representation of national minorities in the BiH State structures. Mention should be made of the recently-created Council of National Minorities, as a positive step towards a more participatory role of minorities in public life. Bosnia and Herzegovina has not yet ratified the European Charter for Regional or Minority Languages.

¹ Under Articles IV and V of the State Constitution, only persons belonging to a group considered by law to be one of Bosnia and Herzegovina’s “constituent people” (Bosniacs, Serbs and Croats), can be elected to the House of the Peoples and to the tripartite Presidency of BiH - the existing structure therefore excludes from the House of Peoples and the Presidency all persons who are referred to as “Others”.

Roma community

37. The Roma community – the largest of the 17 recognised national minorities in BiH – is discriminated against, particularly in employment and housing, and their economic status is considerably lower than that of other ethnic groups. In some municipalities, all Roma are unemployed. As a result, they are also not entitled to free medical care, which is linked to employment.

38. Roma also face other forms of discrimination: many are denied basic franchise and are not able to vote because they lack personal documents and/or are stateless. Only 15% of Roma children complete the compulsory eight-year education, with most girls dropping out in the fifth grade of elementary school. As a result, the illiteracy rate of Roma is very high.

39. In addition to present-day discrimination, justice has yet to be provided to Roma victims of actions during the 1992-95 war: a number of Roma communities were specifically targeted and their inhabitants killed, forcibly conscripted into the military service, raped, enslaved and forced into prostitution. It has been estimated that as many as 30 000 Roma were subjected to ethnic cleansing.

40. Although the majority of Bosniac Roma lived in eastern Bosnia before the war, that is to say in today's RS, most Roma now live in the Federation, primarily in north-eastern Bosnia, the Tuzla Canton, or central Bosnia (Sarajevo, Zenica). Many thousands of Roma from BiH have not returned.

41. As a specific example, the Roma representative that the Secretariat delegation had the occasion to meet in Prijedor suggested that, among the Roma returnees, the main problematic issue is that there are not enough jobs. There are also problems with their relations with the Roma community which has moved from Kosovo and a number of issues concerning education, especially that attendance of Roma students in schools is a problem. According to the mayor of Prijedor, there are 67 Roma students in primary education and 7 Roma students in secondary education. Many of the Roma of Prijedor have returned and are in the process of settling. But there is also the question of migrating Roma and Roma refugees from Kosovo, especially in Prijedor. One hundred and fifty Roma families have returned to Prijedor, of which 9 have received housing from the municipality. Relations between these two Roma communities are difficult.

B. Human rights institutions***1. Restructuring of the Ombudsman institutions***

42. The adoption of the new law on the Ombudsman is another important milestone in BiH's fulfilment of CoE commitments and obligations. The new law, adopted in March 2006, entered into force a few weeks ago and foresees a transition period of six months, during which a co-ordination group will oversee the implementation of the law through a series of working groups. In this delicate phase of transition, from a situation with two Entity-level ombudsmen and a State-level one to a unique structure at State level composed of three persons, the institution risks being weakened by a number of factors: the lack of confidence in the institution because of its perceived ethnic bias, the unclear defined procedure for the election of the ombudsmen, the still too-close party connections to the persons in office.

2. *The Constitutional Court*

43. The Constitutional Court (CC) continues to exhibit a rather impressive record of management of cases thanks, *inter alia*, to a good financial basis, a large number of advisers, the use of IT technology, etc. The Human Rights Commission, within the CC, is working steadily on finishing the pending cases. In spite of the successful working methods used, the CC continues to receive a considerable number of applications, as it is the sole State-level jurisdiction (see below “judiciary reform”), operating with some perceived guarantees of impartiality. However, as stated by the members of the CC themselves, most of the cases they receive are of a political nature: case by RS against State Court jurisdiction, Member of Presidency against RS and FBiH for use of Entity flags and symbols, use of vital interest clause, etc. In spite of the very political nature of these cases, the Constitutional Court should make sure that its political neutrality is preserved.

44. The CC uses, of course, legal reasoning in trying to resolve such highly political questions, but in most cases it is clear that the redress would come only through sound constitutional reforms, on the one hand, and through the completion of the reform of the judiciary system, on the other hand, providing adequate means of redress and more clarity on the connections and hierarchical links between judicial institutions in the country.

45. As a way of example of a highly political issue having to be resolved through legal means, the CC took a very contentious decision by ordering the Federation Parliament and the RS Parliament to make their respective laws, on the use of flags and symbols, conform with the BiH Constitution and the International Convention on the Elimination of All Forms of Racial Discrimination. Such a decision implies the removal of both Entities’ flags and symbols, because of their discriminatory nature. The Entities have six months to comply with the decision, but their leaderships have already challenged the CC’s order.

C. Co-operation with the International Criminal Tribunal for the former Yugoslavia (ICTY)²

46. The international community welcomes the fact that the BiH authorities have recently transferred Dragan Zelenovic to The Hague. However, the most wanted indictees, Mladic and Karadzic, remain at large.

47. Since October 2004, the ICTY has channelled some of the cases to the BiH judicial authorities and to the local courts. The War Crimes Chamber of the Court of BiH is trying the war criminals. This Chamber of the Court of BiH is the first permanent and specialised State-level organ dealing with grave breaches of international humanitarian law. There are two ongoing trials at the moment. Although the functioning of the Court has been praised on

² Following the visit, the Secretariat received some comments from Republika Srpska authorities which emphasise in particular :

- “RS authorities are fully committed to completely meet all obligations to the ICTY, including handing over all remaining war crime indictees;
- RS authorities have undertaken and will continue taking intensive operational activities to find, detain, arrest indictees from RS who are still free; in order to fully comply with the obligations of RS to the Tribunal;
- RS authorities will continue the co-operation with ICTY to deliver the documentation for the trials that are pending before the Tribunal, either upon the request of the Prosecutor’s office, or the counsel of the accused;
- In order to fully comply with obligations to the ICTY, including the arrest of the war crime indictees, RS authorities will continue their co-operation with all competent institutions in BiH Federation, as well as with surrounding countries (Serbia, Montenegro and Croatia)”.

a number of occasions by the ICTY, there are a number of shortcomings, such as the limited prosecutorial resources, absence of specialist war crimes prosecutors (lack of experience in humanitarian law), insufficient assistance of the RS police, failure to make use of evidence available from other sources, witness intimidation or fatigue.

48. A question concerns the impact of the assessment of the level of co-operation with the ICTY concerning the ongoing negotiations with the EU on SAA. The lack of co-operation with the ICTY certainly plays a role in preventing the further return of IDPs.

49. On 27 February 2006, the International Court of Justice (ICJ) began 2 months' hearings, on a landmark case for genocide, brought by Bosnia and Herzegovina against Serbia and Montenegro³ (as the successor State to Yugoslavia). This is the first time a country has sued another for genocide and ethnic cleansing perpetrated by Serbians against Bosniacs in the early 1990s, including the massacre of 7 800 Muslim men and boys in Srebrenica. A ruling is likely to be delivered towards the end of the year or early next year. If the ICJ rules in favour of BiH, it could either order Serbia and Montenegro to pay compensation or to make a formal apology, or a combination of the two. RS leaders have been asking the BiH authorities to withdraw the charges.

D. Sustainable return of refugees and displaced persons

50. According to the statistics of the Ministry for Human Rights and Refugees, although almost 100% of the property has been returned, the actual number of refugees and displaced persons that have returned to their homes since the signing of the Dayton Peace Agreement remains at a much lower level (the most optimistic numbers suggests up to 50%). It is usually the elderly members of the families who return, which will have no future impact on the demography of the ethnically-cleansed area. In some other cases, if the returnees do not sell their repossessed property, they use their houses as weekend homes only or, after official registration, live and work elsewhere.

51. A number of problems explain the low level of the sustainable return of refugees and IDPs: the lack of employment opportunities, limited access to social services, including health care, education and public utilities, a combination of inter-Entity politics and labyrinthine constitutional structures hamper Bosnia and Herzegovina's ability to successfully provide the necessary services at minimum levels. In addition to the slow and complicated administrative structures, local politicians also obstruct the exercise of many other fundamental rights of returnees belonging to a minority ethnicity, including access to electricity and water supplies, as well as the construction of roads.

52. Although the FBiH and RS labour law prohibits discrimination in employment, providing compensation to victims of discriminatory dismissals, in reality, legal protection does not apply to all workers who lost their jobs as a result privatisation operations. Given the scarcity of jobs, preference is given to members of the ethnic majority group.

53. For returnees, there is no law that allows them to resume the job which they had to leave. The majority of them are often without a job in the place that they return. There have not been many major incidents of an ethnic nature in the places where returnees have settled, nor to their private property. However, according to the police records, there have been

³ At the time of the monitoring mission, the country was still called Serbia and Montenegro.

attacks on religious buildings or cemeteries, although one cannot classify them as being planned and organised. Use of national symbols in State institutions or schools causes feelings of resentment among the returnee population and is also a factor that prevents further return.

54. Nevertheless, there are some positive developments in certain parts of Bosnia and Herzegovina, such as the efforts of the town of Prijedor, which the Secretariat delegation had the occasion to visit. At present, some of the Bosniacs who fled during the war have returned, but not all of them have sufficient access to education or job possibilities.

55. As regards the Council of Europe Development Bank, a substantial development package has been put into place since Bosnia and Herzegovina became a member in December 2003: three direct loans for BiH have been approved, for an amount of € 19.8 million (housing for IDPs, health and education), BiH is also a beneficiary of three significant CEB transit loans (projects implemented in the country through foreign intermediary banks). Furthermore, the country has received two exceptional donations from the CEB in 2004-05 (a total of USD 800 000 in aid of IDPs and vulnerable groups). Bosnia and Herzegovina is encouraged to make full use of the possibilities offered by its membership of the CEB.

Population census

56. The real figure of the new population map of Bosnia and Herzegovina can only be determined after a full-scale census. The idea of the possible holding of a population census was echoed with a number of interlocutors by the Secretariat delegation. Whilst there is wide support in favour of the holding of a census, agreement is also widespread on the need to wait for a more favourable and stable political climate before planning such operation. This is clearly an area where assistance and guidance by the international community, including the expert advice of the CoE, is considered essential in order to ensure a confident and transparent process.

E. Freedom of expression and information

57. Although the Law on the Public Radio-Television System of Bosnia and Herzegovina, which regulates the entire public broadcasting system, was passed at the State-level last October, the implementation of the law and the reformulation of the existing bye-laws, in harmony with the adopted law, still remains to be completed.

58. A major problem is the poor professional standard of some media outlets and journalists. The disrespect of the press code by many media was manifested by intrusion into the private lives of individuals and failures to provide the right of reply. Victims of crime and other tragedies are frequently and unnecessarily identified. Media continues to show a noticeable lack of sensitivity for gender issues and members of marginalised groups, such as ethnic minorities, persons with special needs, and sexual minorities, and openly publishes discriminatory articles about them.

59. Furthermore, some media often resort to incitement to religious or ethnic hatred, untrue and unfair reporting, and fail to differentiate between comments, assumptions and facts.

F. Alternative civil service/law on conscientious objection

60. The commitment to adopt a Law on Conscientious Objection has become redundant with the adoption of the defence reform, the creation of a professional army and the suppression of conscription.

V. RULE OF LAW**A. Reform of the judiciary**

61. The important reforms introduced a few years ago, under heavy pressure by the International Community, including, *inter alia*, the creation of a BiH State Court, High Judicial and Prosecutorial Council and State Prosecutor Office, have been crucial in improving the independence of the judiciary and in rendering the work of judges and magistrates more professional. Furthermore, progress has been notable in the areas of prosecution of war crimes and trials, indictment of high officials, as well as the fight against corruption and organised crime.

62. However, all the interlocutors from high judicial institutions, met by the Secretariat delegation, confirmed that the reform of the judiciary has stalled and that numerous obstacles stand in the way of a truly functioning and coherent system. Amongst them:

- 4 parallel and separate jurisdictions at State, RS, FBiH and Brcko levels;
- incoherent systems of laws;
- directives coming from 14 Ministers of Justice;
- 4 different bar exams for lawyers.

63. A strong plea in favour of the creation of a State-level Supreme Court was made by all State judicial institutions as the *conditio sine qua non* to begin harmonisation of the above-mentioned parallel systems and to ensure a minimum coherence in the BiH jurisprudence, avoiding discrepancies in the case-law on identical cases (e.g. rules on detention vary greatly between the Entities). Parallel to the creation of a Supreme Court for the whole country, strong arguments were put forward in favour of including in the constitutional amendments a proper legal basis for the functioning of the Constitutional Court and for the Office of the Prosecutor, thus completing the “judicial pyramid” structure. In this context, mention should be made of recent attempts by the RS Prime Minister to institute special prosecutorial offices in RS. The procedure for their appointments has been strongly condemned by the High Judicial and Prosecutorial Council, as running counter to the above-mentioned required reforms.

B. Fight against corruption and organised crime

64. As regards tackling crime, especially organised crime, Bosnia and Herzegovina has made considerable progress in building up State-level law enforcement capacity, in particular by allocating the necessary resources to ensure the proper functioning of the State Information and Protection Agency (SIPA). The Bosnia and Herzegovina Ministry of Security is progressively being equipped in order to implement its tasks adequately. However, progress towards adoption of the State Anti-Corruption Strategy has been halting, although now on a better track, and effective implementation strategy will remain of vital importance.

C. Police reform

65. In the field of police reform, the Agreement on Restructuring of Police has been adopted by the parties, in line with the three principles outlined by the European Commission, namely: i) all legislative and budgetary competencies for all police matters must be vested at the State level, ii) no political interference with operational policing and iii) functional local police areas must be determined by technical and geographically coherent policing criteria where operational command is exercised at the local level.

66. However, wide differences exist on interpretation of the agreed principles, especially in the RS. It seems unlikely that major progress will be achieved ahead of the elections. The principal aim of the reform is to create a State-level authority, over the police forces, which would be less susceptible to political manipulation.

67. The RS leadership thinks that it is too early to abolish the Entity police forces and in their view, the population is not yet ready for a police force with multi-ethnic character. The RS authorities, who for the moment block further reform possibilities, indicated to the Secretariat delegation during the meetings that, in principle, they were not against the centralisation of the police forces under the State-level authority, if the competences of the Entities are precisely defined. The RS officials insisted on the clear definition of the areas of control between the RS and Federation police forces, on the basis that the limits of the Prosecutor's Office be the borders of the police forces.

D. Penitentiary

68. Within the Canadian International Development Agency -financed Prison Reform project, a study visit on physical restraint of prisoners was co-organised, last December, with the Irish Prison Service. CoE experts contracted to work on prisoners' complaints and risk assessment procedures visited Sarajevo, Istocno Sarajevo, Zenica and Foca prisons, accompanied by the CoE project management staff, and held a series of preparatory meetings aiming to better tailor subsequent workshops to the actual needs of participants and the situation in the field. On 19 and 20 December, a seminar for governors and treatment managers on prisoners' risk and needs assessment was held to pursue modernisation and harmonisation of assessment technology in BiH. The Management Support Group met on 8 March in Banja Luka to initiate the process of law reform on the issues of most concern: harmonisation of laws and secondary legislation into one framework acceptable to all parties (State and Entities), health care in prisons, staff training and implementation of community sanctions.

69. CoE experts assessed prisoners' complaints and inspection-related procedures, from 6 to 16 March, in Sarajevo, Banja Luka and Foca. A workshop on prisoners' complaints and an inspection for representatives of NGOs, the OSCE, Ministries of Justice, Ombudsmen offices and prison establishments was held on 9 and 10 March, in Sarajevo. The workshop reviewed the complaints procedure being piloted in six prisons (Banja Luka, Foca, Mostar, Tuzla, Sarajevo and Zenica) and discussed the possibility of setting up bodies to visit penal establishments.

VI. EDUCATION

70. Education in general is a source of concern in Bosnia and Herzegovina. Since the last monitoring report, no progress has been made in this area. The phenomena of segregation in

the schools of the Federation (so-called “two schools under one roof”), the absence of real choice of curriculum other than the RS one in Republika Srpska, the non-implementation of the state-level Framework Law on Primary and Secondary Education in BiH and lower-level education legislation and agreements such as the “Criteria for School Names and Symbols” as well as the non-adaptation of the law on higher education are signs that the educational sector in Bosnia and Herzegovina is alarming.

71. The questions related to education are becoming a social problem as the families, especially in ethnically mixed communities, insist on segregation and ethnically-pure schools.

72. According to a number of politicians from different ethnicities and groups, the role and the influence of the religious leaders and communities are expanding to an extent that, in the educational field, they rival the State institutions. A law on religions and religious communities at the State-level could answer this question and limit the role of religion in education.

73. Education is the most important aspect of the further unification of the future generations and, moreover, of the country as a whole. Therefore, it is recommended that education should be streamlined, planned and organised mainly at State level.

A. Primary and secondary education

74. Reports that are being published by the UN and the OSCE confirm that attempts to address the problem of “two schools under one roof” in a graduated process, e.g. administrative unification first, then eventually complete unification of the school, has failed. The only schools among the 54 that unified their administration (one Director, Assistant Director, etc) are the Mostar Gymnasium and the schools in Canton 4 and only under intense international pressure.

75. According to the authorities of the Mostar regional government, the unification of five vocational “two schools under one roof”, that was planned by the international community, will not take place. This actually means that all vocational schools in Mostar, a supposed unified city, would be ethnically segregated. The CoE and OSCE have issued a joint letter to the Mostar authorities (attached in Appendix II), to attempt to avert this outcome and ensure at least administratively unified schools, along the lines of the Mostar Gymnasium.

76. The positive steps taken by the Mostar Gymnasium⁴ should be an example for further progress in the Federation. Administrative unification, simple school shift hours that allow the same age groups to mix with each other during break times, joint extra-curricular activities (sports, clubs and excursions), could be the initial steps, until the reform of education has been completed. Nevertheless, the fact that practical improvements that do not require legal changes are not being implemented shows that it is not only the complicated State system of Bosnia and Herzegovina that prevents the reforms from being implemented, but it is actually the authorities that do not want to implement them.

⁴ Unification of the Gymnasium has placed the Bosniac and Croat students in the same school, under the same (multi-ethnic) administration; although the students continue to study in separate classrooms. The joint administration has strived for linguistic and cultural equality within the school, and the actions and attitudes of the administration have had a strong positive influence on the students. There is a marked contrast with the mono-ethnic schools/administrations, where the environment reinforces a sense that nationalism and a fortress mentality are both normal and desirable. Unification has also fostered meaningful interaction between Bosniac and Croat students, through the establishment of a joint student council and all extra-curricular activities and teams being joint (such as the debate club and sports teams). This interaction has led to improved relations between the students and a greater respect for diversity.

B. Higher education

77. After the signing and ratification of the Bologna Declaration and the Convention on the Recognition of Qualifications Concerning Higher Education in the European Region, in September 2003 and in January 2004 respectively, the Council of Ministers of Bosnia and Herzegovina proposed a draft law on higher education, in April 2006. The law, which was expected to be adopted in June 2006, is still being discussed and it seems that both Serbs and Croats have certain objections to the draft.

78. The draft law is an important first step, as it addresses issues such as integrating universities into one legal entity and establishing two key State-level agencies: one for recognition of qualifications (an ENIC) and the other for quality assurance and accreditation.

79. On 1 June, the draft Law was passed by the Council of Ministers, by a majority vote, but without any votes from the Serbs. These fundamental divisions are likely to resurface during parliamentary procedure.

80. At the Entity level, the RS authorities indicated that they were ready to go ahead with their educational reform and to adopt a law on higher education for RS, as well as to establish a State-level agency for accreditation even if the law at State level is not adopted. However, immediately after the visit of the Secretariat delegation, the RS Minister for Education addressed a letter to the authorities in Sarajevo, indicating that they would not accept accreditation at State level. On 8 June, the RS Government accepted a draft higher-education law for the RS and forwarded it to the RS National Assembly. The draft will be reviewed under regular procedure. The law mirrors the state-level draft law, except that it would essentially create two higher-education systems, within BiH, along Entity lines: examples include assigning all competencies to the Entity level and proposing to create a RS Rectors' Conference.

81. On 1 January 2006, the new Joint Programme Strengthening Higher Education in Bosnia and Herzegovina became active for the duration of 18 months and a budget of EUR 364 000. The first Steering Board meeting was held on 12 April 2006. Rectors from the eight universities, members of the Board as well as the two Entity Ministers of Education, pledged their full support for the project and signed a Memorandum of Understanding that outlined their commitments to the project over the next 18 months.

82. On 15 March, the CoE signed a contract with the Canadian International Development Agency for the co-financing of the process of Practicum Portfolio Evaluation and Certification of Secondary School Teachers of Education for Democratic Citizenship in BiH, for a duration of 12 months. Activities started immediately; this project continues the work in training teachers and developing materials for the course "Human Rights and Democracy".

VII. REGIONAL CO-OPERATION

83. There are a few factors favourable to co-operation in South-East Europe (common geography and immediate neighbourliness, recent historical experience, shared and regional issues, the current international climate). Yet, in reality, more than elsewhere in post-communist Europe, there are major obstacles to regional co-operation that offset the potential incentives. The lack of economic cohesiveness most evident in trade patterns, disappointing

economic performances, the informal sector, as well as delayed democratic transition and ethnic nationalism have been seen as the major obstacles to the process of regional co-operation.

84. Considering the above-mentioned obstacles, the interplay between external/international factors and internal dynamics which influence regional co-operation should also be taken into consideration. On the one hand, the external/international factor favours and facilitates regional co-operation by a range of mechanisms and is particularly important in developing societies, while, on the other hand, the internal dynamics, which are more dependent on the existence of a consensus among local actors on the importance of regional co-operation, seem to be more vulnerable and affected by the short-term internal political developments.

85. This factor results in a conflicting dilemma, that is while non-regional initiatives on co-operation and integration seem more attractive to the local elites, the integration in the regional level is somehow neglected. Nevertheless, regional co-operation on practical issues such as reconstruction, trade relations and fight against organised crime could be considered to be progressing at a modest pace.

86. Concerning the Council of Europe, regional co-operation and restoration of dialogue have been included in the post-accession commitments for Bosnia and Herzegovina. Various programmes and projects with the European Commission have been realised over the years, involving BiH, together with the countries of the region. The efforts of the Council of Europe, aimed at ensuring the highest European standards, are integrated and applied in the region, encouraging regional co-operation in all of its manifestations: through initiatives such as the Stability Pact, the South East Europe Co-operation Process, punctual programmes designed to create practical co-operation between countries in key areas, such as the fight against corruption and organised crime, money-laundering, but also cultural heritage, history teaching, transfrontier co-operation. The CoE could offer an appropriate framework to discuss sensitive questions related to facing the past and could encourage the first steps towards possible reconciliation, for countries that have known conflict and loss.

VIII. CONCLUSIONS AND RECOMMENDATIONS FOR ACTION

After four years of membership in the Council of Europe, major reforms have been realised in Bosnia Herzegovina. Nevertheless, there are certain shortcomings in the implementation. Therefore, in the light of the current report, the following recommendations are addressed to the BiH authorities:

- The constitutional reform process, which would allow the country to have full ownership of its institutions and help it on its way towards full integration in the Euro-Atlantic structures, should be restarted after the elections in October.
 - Such a reform should be accompanied by the process of transfer of competences and responsibilities from the Entities (and Cantons in the Federation).
 - The constitutional amendments should also be integrated into the Constitution of the Federation, which allows for the full application of the Law on Local Self-Government.

- The revision of the electoral legislation should be completed, in line with the recommendations of the Venice Commission.
- The extensive judicial reform, which the country has undertaken, should be continued without the hindrance of political developments in the country.
 - In order to ensure the harmonisation of parallel judicial systems and to introduce coherence in the BiH jurisprudence avoiding discrepancies in the case-law, a State-level Supreme Court should be created.
 - The execution of judgments of court decisions and the enforcement of judicial decisions should be addressed.
 - The State penitentiary system should be completed, in order to facilitate the transfer of the cases from the ICTY to the BiH justice system.
- Co-operation with the ICTY should be continued in an intensive manner, which would finally result in handing over the most-wanted indictees to The Hague.
- The restarted exercise of compatibility of legislation with the ECHR, should be pursued and finalised as soon as possible.
- The transition of the unification of the Ombudsman institution, at the State level, should be completed smoothly. This should not result in the lowering of the human rights protection system, and all guarantees of impartiality should be secured, in particular with regard to the appointment procedure.
- A coherent strategy for reconciliation in the country is clearly needed. Thus is it recommended that a “truth and reconciliation commission” be established, in a format to be decided by the BiH authorities.
- Considering the situation of minorities:
 - the recommendations, contained in the opinion of the Advisory Committee on the Framework Convention for the Protection of National Minorities, should be applied swiftly;
 - the European Charter for Regional and Minority Languages should be ratified;
 - the Roma strategy, which was adopted by the State institutions, should be implemented without further delay;
 - The ratification of the European Social Charter would enhance social protection.
- The police reform should be implemented, according to the principles agreed by the BiH authorities.
- Full reunification and integration should be achieved in all the schools that are considered to be “two schools under one roof”. The current situation is not acceptable.

- The right to education in minority languages or in the language of the constituent people, where they form a minority group, should be guaranteed throughout the country.
- The reform process of the Law on Higher Education should be completed, without further delay, in order to facilitate the application of the law in the next school year.

The authorities of BiH and the European Union institutions should:

- make full use of the CoE's norms and standards, as well as its capacity for expertise and action, in the process of the SAA.

The International Community should:

- give support for the improvement of the situation of the IDPs and refugees and invest in developing programmes and job creation, which would facilitate the return of IDPs.

The Secretariat should:

- intensify its efforts, in order to create a School of Political Studies which would allow the participation of all sectors of the population

Appendix I**PROGRAMME OF THE SECRETARIAT'S VISIT TO BOSNIA AND HERZEGOVINA
(SARAJEVO, MOSTAR, BANJA LUKA, PRIJEDOR)****22-26 MAY 2006****Monday, May 22**

- 14:45 Arrival in Sarajevo
- 16:00-17:00 **Meeting with HE Mr Douglas McElhaney, Ambassador of the USA**
- 17:15-18:15 **Meeting with Members of the BiH Presidency**
 Mr Borisav Paravac
 Mr Ivo Miro Jović
 Mr Almir Šahović, (adviser to Mr Tihić)
- 18:30-19:15 **Meeting with representatives of the NGO "International multi-religious
 and intercultural Centre"**
 Mr Marko Oršolić, President
- 20:00 **Dinner with representatives of the BiH Council of Ministers**
 Mr Osman Topčagić, Director, Directorate of European Integration
 Mr Mihajlo Suznjević, Councillor at MFA

Tuesday, May 23

- 09:-10:30 **Meeting with representatives of the BiH Council of Ministers**
 Mr Ivica Marinović, Deputy Minister of HR and Refugees
 Mr Safet Halilović, Minister of Civil Affairs
 Ms Esma Hadžagić, Assistant Minister of Civil Affairs
 Mr Slobodan Kovač, Minister of Justice
 Mr Dragomir Kovač, SG MHRR
- 10:45-12:45 **Meeting with representatives of FBiH Ombudsmen**
 Ms Branka Raguž
 Mr Esad Muhibić
 Ms Vera Jovanović
- 12:00-13:00 **Meeting with representatives of the "Center for Interdisciplinary
 Postgraduate Studies", University of Sarajevo**
 Mr Zdravko Grebo, Director
 Ms Taida Begić, Deputy Director
- 13:00-14:30 Lunch
- 14:30-15:45 **Meeting with representatives of the Government of the BiH Federation**

Mr Ahmet Hdžipašić, PM
 Mr Zijad Pašić, Minister for Education
 Ms Borjana Krišto, Minister of Justice
 Mr Mevludin Halilović, Minister of Internal Affairs

16:00-17:30 Meeting with representatives of Collegiums of HR and HP BiH PA

Mr Martin Raguž, Speaker PA HoR
 Mr Šefik Džaferović,
 Mr Nikola Špirić
 Mr Mustafa Pamuk, Speaker PA HOP
 Mr Goran Milojević
 Mr Velimir Jukić

19:30 Dinner with representatives of the International Community

HE Peter Bas-Backer, Senior Deputy HR
 HE Michael Humphreys, Head of EC delegation
 HE Douglas Davidson, Head of the OSCE mission to BiH

Wednesday, May 24

8:00-09:15 Working breakfast with representatives of the religious communities

Naibu reis Ismet efendija Spahić (Muslim Community)
 Mr Jakob Finci (President of the Jewish Community)
 Msgr Mato Zovkić, Vicar (Catholic Church)
*Orthodox Church apologised for not being able to join the meeting
 because of a prior scheduled activity outside Sarajevo)*

Mostar meetings: J-L. Laurens, T. Cartwright, C. Oztas, E. Mavrić

11:30-12:30 Meeting with representatives of the OSCE, office of Mostar

Mr Matthew Newton, OSCE Regional Education Adviser
 Mr Claude Kieffer, acting Director of OSCE Education Dep. In BiH

12:45-14:00 Meeting with representatives of the Steering board of the Mostar's Gymnasium

14:00-15:30 Working lunch with Mr Dragan Čović, President of HDZ

15:30-16:30 Meeting with representatives of the HN Cantonal Government

Mr Miroslav Ćorić, PM
 Mr Jozo Musa, Minister for Education

16:45 Departure to Sarajevo

19:30 Sarajevo, Arrival

Sarajevo meetings: Ms Claudia Luciani, Ms Besa Dume

09:30-10:30 Meeting with representatives of State Court

Ms Medžida Kreso, President

- 10:30-11:30 **Meeting with representatives of the Prosecutor office**
 Ms Mihailovic, Deputy State Prosecutor
 Mr Markovic, Chairman of Association of Prosecutors
- 13:15-14:15 **Meeting with the BiH Ombudsman's**
 Mr Mariofil Ljubic
 Mr Safet Pasic
- 15:30-16:30 **Meeting with representatives of Constitutional Court of BiH**
 Mr Dusan Kalember, Secretary General
 Mr Faris Vehabović, Registrar and Deputy Secretary General
- 16:45-17:30 **Meeting with Mr Michael Henning, Director, Democracy Office, USAID-Bosnia and Herzegovina**

Thursday, May 25

- 08:00-09:15 **Working breakfast with CoE Member States Ambassadors**
 HE Miroslav Mojžita, Ambassador of Slovakia
 HE Matthew Rycroft, Ambassador of UK
 HE Andrzej Tyszkiewicz, Ambassador of Poland
 HE Petre Catrinciuc, Ambassador of Romania
 HE Constantina Mavroskelidou, Ambassador of Greece
 HE Imre Varga, Ambassador of Hungary
 HE Hose Ramon Garcia Hernandez, Ambassador of Spain
 HE Lars-Erik Wingren, Ambassador of Sweden
 Ms. Dunja Jevak, Deputy Head of Mission, Embassy of Croatia
 Mr Bernhard Abels, Counsellor, German Embassy
 Mr Ivan Gorbunov, First Secretary, Embassy of Russian Federation
 Ms Alenka Vipotnik, Counsellor, Embassy of Slovenia
- 09:45 Departure to Banja Luka
 12:45 Arrival, Banja Luka
- 13:00-14:30 **Working lunch with representatives of RS Government**
 Mr Milorad Dodik, PM
- 14:30 **Press**
- 15:00-16:20 **Meeting with the President of Republika Srpska**
 Mr Dragan Čavić
- 17:00-18:30 **Meeting with representatives of RS National Assembly**
 Mr Igor Radojičić, Speaker
 Mr Tomislav Tomljenović, Deputy Speaker
 Mr Perica Rajčić, Head of Cabinet
- 18:30 **Press**
- 18:45 Departure to Prijedor
 19:45 Prijedor, arrival

20:30 **Dinner, hosted by Mr Marko Pavić, Mayor of Prijedor**

Friday, May 26

09:30-10:00 Meetings with Representatives of city of Prijedor

Mr Marko Pavić, Mayor
Ms Azra Pašalić, Assembly Speaker
Mr Dušan Tubin, Deputy Assembly Speaker
Mr Dragutin Rodić, Head of Cabinet
Ms. Ljiljana Babić, Prijedor Municipality

10:00-10:45 Meeting with representatives of national minorities

Mr Hatić Redžep, Roma minority
Mr Zvonko Man , Czech minority
Ms. Slavica Gligović, Ukrainian minority
Ms Alenka Vidić, Slovenian minority

10:45-11:30 Meeting with representatives of the returnees

Mr Sead Jakupović
Mr Mirsad Duraković
Mr Sead Suljanović

11:30-12:15 Meeting with representatives of the displaced persons

Mr Djordje Jež
Mr Gojko Mijatović
Mr Pero Džodan
Mr Ranko Lale

12:30-12:45 Press

12:45-13:45 Visit to returnees/displaced persons

14:00 Departure of Delegation to Zagreb/Palić

Composition of the delegation of the CoE Secretariat

Mr Jean-Louis Laurens, Director General, Directorate General of Political Affairs
Ms Claudia Luciani, Head of Division III, Directorate General of Political Affairs
Mr Can Öztaş, Directorate General of Political Affairs
Ms Besa Dume, Directorate General of Political Affairs

Mr Tim Cartwright, Special Representative of the Secretary General (SRSG) in BiH
Mr Esad Mavrić, Executive Secretary, CoE Sarajevo Office

Appendix II



Sarajevo, 16 May 2006

Dear Mr Beslic,

We write in connection with reconstruction of the Mostar Secondary School for Traffic Engineering and the planned reconstruction of the Machine and Electrical Engineering School which we believe present the City of Mostar with the opportunity to create vocational schools that are legally and administratively unified in a similar way to the Gymnasium Mostar.

This Gymnasium is often cited as a successful model of legal and administrative unification, with its single administration, joint school bodies and equality of the Federation and Croat Curricula. The fact the students from the Federation and Croat curricula are enrolled in the same school, under one school Director, and participate in a joint student council, joint sports teams and various joint school activities, has assisted in creating a sense of solidarity and respect for diversity among the students. These successes have been recognised by the students and parents, with enrolment in the Croat and Federation curricula increasing since unification. The unification has also brought financial benefits for the Cantonal and City authorities in terms of reduced administrative costs.

Using this model for the Secondary School for Traffic Engineering and the Machine and Electrical Engineering School would offer a similar prospect for improved quality of education available to students, allow – for instance - for more efficient purchase and utilisation of specialised material, equipment and laboratories, and for the reinvestment of administrative savings in the modernisation of the schools. Implementation of legal and administrative unification would also ensure compliance with the relevant instruction issued by the Cantonal Minister of Education in August 2003.

On the other hand, a situation where students of the same vocation study in separate schools, separated along ethnic lines within the same building, would reinforce the divisions between students, and thereby undermine the broader efforts to unify the city. Such a situation would also undermine the efforts of Bosnia and Herzegovina in meeting its post accession commitments to the Council of Europe to eliminate all aspects of segregation and discrimination based on ethnic origins. We therefore strongly urge the City of Mostar authorities to avoid any move in this direction.

To this end, the Council and Europe and OSCE remain at your disposal in support of the efforts of the Mostar authorities to legally and administratively unify the Mostar vocational schools.

Sincerely,

Claude Kieffer

H.E. Tim Cartwright

Acting Director of Education Department
OSCE Mission to BiH

Special Representative of the
Secretary General, Council of
Europe

Copy: Mr Murat Coric, Speaker of the Mostar Municipal Assembly
Mr Jago Musa, Cantonal Minister of Education