

Bosnia and Herzegovina: compliance with obligations and commitments and implementation of the post-accession co-operation programme  
Document presented by the Secretary General

**Fourth quarterly report (March 2003-June 2003)**

*Executive summary*

During its first year of membership, Bosnia and Herzegovina (BiH) has implemented major commitments undertaken upon accession to the CoE. BiH has ratified key Human Rights instruments within foreseen deadlines (as concerns Protocols Nos 12 and 13 to the ECHR, the deposit of the instruments of ratification is expected shortly, following the recent authorisation to do so by the State Parliament) and the country also successfully organised the 5 October 2002 elections. In addition, implementation of the 2000 Decision of the Constitutional Court on constituent peoples is under way. Progress has also been achieved in reforming the State institutions, the judiciary and public administration and the return of refugees and IDPs, on a voluntary basis, has also considerably improved.

However, it remains to be confirmed whether progress achieved can already be considered as irreversible. Furthermore, a real 'reform ownership' still has to take root.

More specifically, as concerns:

- **Democratic institutions:** as a result of some affairs, the Serb member of the State Presidency resigned in April 2003 under the pressure of the International Community (see para. 11). A new member was subsequently appointed.

The one-year period that precedes the autumn 2004 local elections in BiH will be crucial in laying the foundations for durable reforms by the current authorities, at State and Entity levels.

- **Human Rights:** the situation remains difficult and varied. According to some NGOs, it deteriorated after the October 2002 elections. Progress regarding the transfer of responsibility of the Human Rights Chamber to the BiH Constitutional Court is being made and a Law on minorities was adopted.

- **Rule of Law:** Significant cases of corruption continue to be revealed. On the other hand, reform of the judiciary is progressing and the State Court has started to work.

- **Education:** The new framework legislation in the field of primary and secondary is in its final stage of adoption. Subsequently, the attention should concentrate on implementation and on higher education.

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Council of Europe Press Release dated 24 April 2003: "Bosnia and Herzegovina marks first anniversary of entry into Council of Europe"

## **I. INTRODUCTION**

1. On 24 April 2002, Bosnia and Herzegovina (BiH) joined the Council of Europe (CoE) as the 44<sup>th</sup> Member State. Accession of BiH to the CoE became possible following the adoption of Opinion No 234 (2002) of the Parliamentary Assembly of the CoE (PACE), which lists a series of commitments to be met by BiH following its accession to the Organisation (see the Addendum to the present report).

2. The present report is the fourth quarterly report prepared by the Secretariat following the Committee of Ministers decision of 29 May 2002 mandating the Secretariat to provide the Committee of Ministers Rapporteur Group for Democratic Stability (GR-EDS) with quarterly progress reports on the honouring of commitments by BiH, as well as developments in the post-accession co-operation programmes. The first three reports were presented in July 2002 [doc. SG/Inf(2002)27], November 2002 [doc. SG/Inf(2002)40] and March 2003 [doc. SG/Inf(2003)9 and Addendum].

3. As BiH marked, last April, the first anniversary of its entry into the CoE (see Appendix), this report offers the opportunity, after one year of membership, to give an initial assessment of the post-accession co-operation programme (Part IV), in addition to the update and stock-taking of the compliance with obligations and commitments undertaken upon accession (Part III).

4. The present report is based on information provided by the BiH authorities and the CoE in Sarajevo, as well as from Secretariat officials in charge of the implementation of the post-accession co-operation programme. It takes also account of the deliberations of the Seminar 'Bosnia and Herzegovina on the road to European Integration' organised by the PACE Political Affairs Committee in Sarajevo on 19 May 2003. The report reflects also information provided by representatives of the international community in BiH, in particular, the Head of the OSCE mission in BiH, Ambassador Beecroft during his visit to Strasbourg on 23 May 2003.

## **II. MAIN CONCLUSIONS**

5. *During its first year of membership, BiH has implemented major commitments undertaken at the time of accession to the CoE. BiH has ratified key Human Rights instruments within foreseen deadlines, in particular the European Convention on Human Rights (ECHR) and Protocols Nos 1, 4, 6 and 7 – as concerns Protocols Nos 12 and 13 to the ECHR, the deposit of the instruments of ratification is expected shortly, following the recent authorisation to do so by the State Parliament - and the European Convention for the prevention of Torture and Inhuman or degrading Treatment or Punishment (ECPT). BiH has also successfully organised the 5 October 2002 elections and implementation of the 2000 Decision of the Constitutional Court on constituent peoples is under way. In addition, progress has been achieved in reforming the State institutions, the judiciary and public administration. Approximately 80 % of property cases have now been resolved and the return of refugees and IDPs, on a voluntary basis, has also considerably improved. It is also noteworthy that an agreement has been achieved on the principles of the revenue system; it is now envisaged to put in place VAT in 2005. These achievements should pave the way for further progress.*

6. However, it remains to be confirmed whether progress achieved can already be considered as irreversible. Representatives of the International community generally consider that BiH is not yet a self-sustainable country. Furthermore, a real 'reform ownership' has still to take root.

7. In addition, much remains to be done to strengthen democratic institutions, protect human rights, complete and implement the current reform of the education system. The one-year period that precedes the autumn 2004 local elections in BiH will be crucial in laying the foundations for durable results by the current authorities at State and Entity levels.

8. The post-accession programme, offering additional assistance with the fulfilment of commitments and obligations in the first year of membership, is now being pursued through various programmes, notably a Joint Programme with the European Commission (EC) European Initiative for Democracy and Human Rights (EIDHR) 2003-2005 concerning continued judicial reform, prison system development, legislative expertise and civic and human rights education. Additional new joint endeavours with the EC Community assistance for reconstruction, development and stabilisation programme (CARDS) are being negotiated in the fields of judicial training, education etc. As a member of the CoE, BiH participates with full rights in all the Organisation's programmes and structures.

### **III. COMPLIANCE WITH OBLIGATIONS AND COMMITMENTS**

9. In the last report, in order to guide CoE work, notably the post-accession co-operation programme, a number of priority matters were identified in the fields of democratic institutions, human rights, rule of law and education. These priority matters appear in the boxes below.

#### **1. Democratic institutions**

**- Strengthening and functioning of democratic institutions (at State and Entity level), with particular reference to the legislative process and to effective participation of representatives of the constituent peoples in decision-making**

10. Practically all authorities are now operational following the 5 October 2002 elections. The State Council of Ministers offered an encouraging example in the expedient agreement on the Law on Ministries already in February 2003. The State-level Ministry of Justice functions but is still in the process of construction (a further definition of its functions may also be necessary). The State Court has also started to work.

11. The period covered by the present report was also marked by the resignation of the Serb member of the State Presidency, Mr Mirko Sarovic, on 2 April 2003. Mr Sarovic resigned in order to take responsibility for the 'Orao affair', involving an aviation company of the Republika Srpska (RS), which exported military equipment to Iraq in violation of the UN arms embargo. In addition, it was also reported that a unit of the RS Army had carried out intelligence activities against national and international institutions in BiH. Both cases underscored the weakness of democratic control over BiH armed forces. Consequently, in April 2003, the High Representative issued decisions aimed at strengthening State-level command and civilian control of BiH armed forces. In particular, he appointed a Defence Reform Commission (DRC) aiming to ensure that legislation, amendments and other recommendations to reform the defence structures in BiH will be ready by 30 September 2003 and implemented by 1 January 2004.

12. Mr Sarovic was succeeded by Borislav Paravac, the Deputy Speaker of the House of Representatives of the BiH Parliament. According to the existing procedure, a Bosnian Serb member of the Presidency should be succeeded by a Bosnian Serb Member of the House of Representatives. Mr Paravac was also nominated for the Presidency by the SDS party.

13. A government for the Federation of BiH (FBiH) eventually took office on 14 February 2003. FBiH Prime Minister Hadzipasic has stated that the priority is to professionalise the administration, ensure a functioning Law on Civil Service and reduce public expenditure. Within the FBiH it is noticed that the setting-up of Canton 7 (Herzegovina-Neretva) government was recently completed. BiH constitutional structure is complex at best and it raises questions about relevance and responsibility when tiers of government, albeit subject to difficult circumstances, are unable to function more than 7 months after the elections.

14. As concerns Public administration, the Peace Implementation Council's Steering Board meeting in March 2003 welcomed the adoption of laws in RS and State levels but expressed concern at the recently tabled FBiH Civil Service Law and called on authorities to bring it into line with European Standards.

15. In summary, it is still too early to make an attempt at assessing of the work undertaken by the various tiers of government since the October 2002 elections. However, it is clear that the one-year period that precedes the autumn 2004 local elections in BiH will be crucial in laying the foundations for durable results by the current authorities.

<p><b>- Development and functioning of local democracy (powers and finances)</b></p>
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16. The Mostar Reunification Commission held its first working session in April 2003. The expectations are very high regarding this twelve-member Commission which will develop a new, unified statute for the city of Mostar. The current Interim Statute dates from 1996. The Mostar Commission will also aim at eliminating parallel structures and administrative overlap. The work should be carried out within three months. The CoE will closely follow the progress of this important undertaking.

17. The third post-accession monitoring report mentioned the proposal for the creation of a Local Democracy Agency in Mostar. At the time of a Secretariat visit in February 2003, the Mayor and Vice-Mayor of Mostar showed significant interest in establishing a single agency for Mostar. However, the initiative has only made little progress. This initiative therefore still requires follow-up in terms of political and financial support.

18. The CoE, together with the OSCE Mission, launched a campaign in April 2003 to increase the impact of the European Charter for Local Self-Government in BiH. Translations in

the local languages are now being disseminated. The Charter was ratified in 2002, as an accession commitment. Development and functioning of local democracy, as an essential component of a democratic State, should balance the strengthening of State institutions.

## **2. Human rights**

19. The human rights situation remains varied. In a [joint press release](#), the Helsinki Committee for Human Rights in FBiH and the Helsinki Committee for Human Rights in RS stated that the state of human rights was still very difficult and deteriorated after the October 2002 elections. They stressed in particular the numerous cases of violence against returnees and a drastic increase of the cases of attacks on religious objects and cemeteries. They also consider that the international peace mission in BiH does not consider human rights as one of the priorities in its activities and called on the strengthening of cooperation with NGOs in the field of human rights. Following an attack on a civil society activist in RS in April 2003, [the International Helsinki Federation for Human Rights](#) also reported that the activities of human rights NGOs in the whole of BiH are often targets of threats and intimidations.

20. In March 2003, Amnesty International launched a [report](#) entitled “BiH: honouring the ghosts – ending impunity for disappearances”, which reiterates the organisation’s concern on what it considers to be one of the most serious persisting human rights violations in the country resulting from the war. The report calls for urgent steps to be taken in the field of legal reform, the launch of immediate police and judicial investigations into all cases of ‘disappearances’ and the need to guarantee the relatives of the “disappeared” their right to redress the reparation, including compensation.

21. In this respect, on 7 March 2003, the BiH Human Rights Chamber issued a decision in a case brought by 49 relatives of missing persons from Srebrenica. It ruled that the RS violated their human rights by failing to disclose any information on the fate of the missing persons. The RS authorities were ordered to immediately disclose such information as well as the location of mass gravesites and to open a comprehensive investigation into the events in Srebrenica. The authorities were also ordered to pay a total of approx. 2 million euros for the collective benefit of all applicants and families of Srebrenica victims to the Foundation of the Srebrenica-Potocar Memorial and Cemetery. No steps have been taken to date to implement this decision. Other cases concerning disappearances of Serbs and Croats are under consideration by the Human Rights Chamber .

<p><b>The future of Dayton human-rights protection institutions after expiry of their mandate (31 December 2003)</b></p>
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22. The Human Rights Chamber has played an important role over the last seven years in promoting justice and protecting human rights. Its mandate was extended for an additional 3 years in 2000. With the accession of BiH to the CoE and the ratification of the ECHR it is only natural that the Chamber should cease to function when its mandate ends at the end of 2003 and that the BiH judiciary and BiH institutions should be responsible for applying the ECHR and other international instruments that are an integral part of the BiH legal order. The international community has repeatedly urged a solution, not least of all the CoE. A transfer of responsibility of the Human Rights Chamber to the State Constitutional Court is being envisaged. The strategy is also geared towards developing the capacity of the Constitutional Court, and the CoE has offered its assistance in this process. The Peace Implementation Council meeting of 12 June 2003 agreed that the Chamber’s mandate should be transferred to the institutions of BiH as part of the process of strengthening and localising human rights protection in BiH, and that the Chamber should cease accepting new cases in the near future, with a target date of 31 July 2003, in order not to add to the backlog of some 10, 000 cases. The modalities of the transfer require

further discussion with relevant institutions. The Peace Implementation Council meeting stressed that the transfer plan must provide effective protection of human rights in BiH.

23. The Constitutional Court finally held its inaugural session on 30 May 2003 and elected Mato Tadic as its President (Judge Tadic has been a member of the Human rights Chamber since June 1999). However, one remaining judge still to be appointed by the RS National Assembly. The Court faces enormous challenges having not formally worked for over a year and with the new challenges of the human rights cases, there is recognition that the Rules of Procedure will have to be amended and that the Court will have to sit more regularly than 2 days every six weeks.

24. Focus on the transfer of responsibility should not imply any less focus on implementation. There are concerns about the failure of the FBiH to implement successive decisions of the Human Rights Chamber. This concerns particularly violations arising from the application of Article 3a of the FBiH Law on Repossession of Socially Owned Apartments (granting exceptions to the rule that permits refugees and displaced persons repossess their property).

25. The Ombudsman institutions are equally key in dealing with individual Human Rights concerns. As the current State Ombudsman, an international appointment, will leave by January 2004, the appointment procedure of his successors – three BiH nationals- should commence as soon as possible. However, it should also be recognised that the main caseload remains on the Entity-level where there are functioning Ombudsman Offices. Any future transformation of the Ombudsman institutions should not lose sight of the goal of alleviating individual Human Rights concerns in the most efficient way.

#### **Co-operation with the International Criminal Tribunal for the former Yugoslavia (ICTY)**

26. Modalities of the setting up of a war crimes Chamber in the BiH State Court are still being discussed (see also para. 36 below).

27. In March 2003, the High Representative launched a campaign to undermine the support network that has allowed indicted war criminal Radovan Karadzic to evade arrest.

#### **Sustainable return of refugees and displaced persons on the basis of freedom of choice**

28. According to recent information some 80 per cent of the property claims throughout BiH were resolved as of the end of March 2003. This is a steady and positive development. However, according to the Office of the High Representative, it would appear that several municipalities have slowed down the completion of property law implementation, as some of these municipalities leave the hardest cases to the end or refuse to resolve some outstanding claims. Additional financial resources have recently been put at disposal of the Commission for Real Property Claims (CRPC) and it is expected that an agreement on the transfer of the CRPC information base, archive and property claims is signed with the Ministry of Human Rights and Refugees (MHRR) in the near future. The relevant authorities (MHRR) have made promises to pay more attention to the reconstruction of repossessed property and sustainable return.

29. It is also worth pointing out that continued attention to the returns issue is necessary. The International Community estimates that, overall, several hundred thousand displaced persons and refugees are still seeking a solution. It is also a continuous preoccupation of the CoE that the return of property on many occasions does not equal occupancy. People should have every opportunity to return if they so wish. However, economic and social conditions, unemployment,

lack of adequate education facilities, as well as in certain places persistent insecurity, are all factors which undermine sustainable return of refugees and IDPs.

30. Eventually, the delicate issue of a new census will have to be dealt with. The 1991 census still forms the basis for distribution of positions in the governmental structures. A new census should ideally be carried out prior to the next parliamentary elections, ultimately due in 2006.

- **Other matters:**

- *CoE Conventions in the field of Human Rights, to be ratified within one year of accession to the Organisation*

31. BiH has ratified the European Convention on Human Rights (ECHR) and its Protocols Nos 1, 4, 6 and 7. The deposit of the instruments of ratification of Protocols Nos 12 and 13 with the CoE Secretary General is expected shortly, following the recent authorisation to do so by the State Parliament.

A Government Agent Office has still to be established.

32. The confirmation of nominees to the position of BiH Judge at the European Court of Human Rights will allow the election of the BiH Judge by the PACE. This would be a concrete and significant sign of BiH's place in Europe, and contribute to the consolidation of the human rights protection mechanisms in BiH.

33. BiH has also ratified the European Convention for the prevention of Torture and Inhuman or degrading Treatment or Punishment (ECPT) within the agreed deadline. The CoE Anti-Torture Committee carried out its first visit to BiH in April 2003.

- *Minority protection*

34. The Law on protection of rights of national minorities was finally adopted by the BiH State Parliament. Although the CoE was not consulted on this draft law, it is nevertheless available to work with the BiH authorities towards its implementation. However, it is with concern that the first report due under the Framework Convention on the Protection of National Minorities, ratified in 2000, is now two years late, thus preventing any constructive dialogue between the BiH authorities and the Advisory Council of the Convention to be developed. To date, no real progress was registered as regards accession to the European Charter for Regional or Minority Languages.

- *Conscientious objection*

35. BiH has committed itself to the principle of conscientious objection. Work is currently underway with a view to amending all necessary provisions. Meanwhile problems reportedly exist in both Entities where procedures for conscientious objection remain cumbersome and little information is available for prospective conscripts, thus leaving many in a difficult position. It should be noted that both Ministries of Defence have recognised the necessity to amend their legislation and create a viable, non-administratively burdensome, alternative service, and CoE has been requested to provide assistance in this process.

### **3. Rule of law**

<p><b>Functioning of the judicial system, particularly with regard to execution of court decisions and the fight against corruption and organised crime</b></p>
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36. In May 2003, the High Representative appointed an international judge to the State Court, which has now started work. Modalities of the setting up of a war crimes Chamber in the State Court, the transfer of a number of cases from the Hague tribunal, as well as the setting up of a State prison are still being discussed. In reply to an invitation by OHR, the CoE has expressed its willingness to assist in this respect.

37. Reportedly, the lack of execution of court decisions and corruption continue to jeopardise progress made so far. In this respect, the OSCE Mission in BiH in April 2003, reiterated its concerns about the FBiH's continuing failure to implement successive decisions by the BiH Human Rights Chamber concerning repossession of socially owned apartments from the housing stock of the former Yugoslav National Army (JNA) by their pre-conflict occupants and purchasers (see para. 24 above).

38. The process of appointment of judges and prosecutors is underway and should now be completed by Spring 2004. The filing of applications for middle- and lower-tier judicial and prosecutorial posts ended in February 2003 with some 1,610 applications for approximately 990 posts. The High Judicial and Prosecutorial Councils (HJPCs, at Entity-level) are now in the process of interviewing applicants and making appointments at Canton and District levels.

39. As the appointment procedure is well underway attention should be given to two related questions. First, the question of one single HJPC at the State-level, effectively amounting to a transfer of competence from the Entities. In May 2002 the High Representative enacted the Laws on High Judicial and Prosecutorial Councils and instructed the Entity Prime Ministers to make proposals regarding a future single HJPC. This instruction met resistance and has not progressed significantly since. The High Judicial and Prosecutorial Councils should become national institutions by the end of the year and the Independent Judicial Council and the HJPCs are in favour of the opening of negotiations with a view to an eventual transfer of competences to a consolidated HJPC. This would be of great importance, offering a strong signal in the direction of a unified BiH judiciary.

40. The second question concerns a consolidation of the results to be achieved through the appointment procedure. From discussions with the Independent Judicial Commission and others it is clear that there still is a very large need for training of judges, as well as for the development of Law Faculties. Hence the importance of CoE project to set-up proper training structures for judges and prosecutors which could be given further impetus through the planned new EC/CoE Joint Programme.

41. Corruption and misuse of public funds continue to be revealed. In March 2003 an audit of the Elektroprivreda RS (the RS electricity monopoly) revealed serious mismanagement, causing an estimated loss of €83 million per year. The High Representative has since removed the Director General of the company. Other audits of public utility companies will follow. In the month of March another audit highlighted systematic and large-scale abuses of funds at FBiH Ministry of Displaced Persons and Refugees.

42. At the same time BiH is assuming regional responsibilities in the fight against corruption and organised crime. A seat of the Stability Pact initiative for the fight against crime will be located in Sarajevo. BiH has taken over the position of Chair of the South-Eastern Europe Co-operation Process, which, among other things, tries to tackle organised crime.

43. Adoption of Entity criminal codes and criminal procedure codes in conformity with BiH legislation will be critical to combating organised crime and terrorism. The RS Criminal Code and Criminal Procedure Codes were adopted by the RS National Assembly end of May 2003.



44. The police in the RS has recently been the subject of some attention. The EU Police Mission (EUPM) and others have welcomed the arrest of some personalities linked with human trafficking and other forms of organised crime. At the same time there are concerns about the continued employment of non-certified personnel, inactivity by police commanders or even blatant abuse of powers. Further scrutiny of the police forces within the Entities seems necessary.

45. Finally, it should be noted that, reportedly, BiH and the US signed an agreement on 16 May 2003 not to extradite each other's nationals to the International Criminal Court (ICC). This agreement is still subject to ratification by the State Parliament. The President of the CoE Parliamentary Assembly, Peter Schieder, expressed concern on 21 May 2003 about the pressure put on BiH, Croatia and "the former Yugoslav Republic of Macedonia" to sign such immunity agreements undermining the integrity of the ICC.

#### **4. Education**

<b>Adoption of education legislation at all levels, reform of curricula and eradication of all segregation in the school system.</b>
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46. Schools where children are separated according to their ethnicity still exist. This continued segregation is a matter of grave concern.

47. However, it would appear that a general will now prevails in BiH to create common standards in education for the country as a whole, despite some political resistance to any state-level legislation. The draft framework Law on primary and secondary education was adopted by the State House of Representatives on 6 June 2003 and by the House of Peoples on 20 June 2003. The State Parliament is now expected to harmonise the versions adopted. When finally adopted, the Common Core curriculum, one of the key provisions, will assist in ending ethnic segregation in classrooms, one of BiH's accession commitment to the CoE. During their visit to Strasbourg on 15-16 May 2003, the Ministers of Education of RS and FBiH gave assurances that the legislative framework will be in place before September 2003 to allow the new curriculum to be applied by the next school-year 2003-2004.

48. As concerns higher education, the BiH Council of Ministers recently agreed to ratify the Lisbon recognition Convention. In addition, a State-level law based upon the Bologna Process principles is expected to be submitted to the Parliament in July 2003 and entity-level legislation should follow. The Bologna Process is a Europe-wide development bringing higher education across Europe on the basis of common criteria and standards.

49. In the FBiH, agreement must be obtained from cantonal authorities to defer higher education competencies to the Entity level. As yet, local authorities have made no moves towards this crucial objective. Future financial assistance has and should be made conditional on reform in this area. In this respect, the World Bank will make all future loans conditional on this provision.

50. The authorities are expected to provide an update of the Education Reform Agenda, agreed with the international community in November 2002, to the Peace Implementation Council's Steering Board meeting in Sarajevo on 12 June 2003.

51. In the last report it was mentioned that the BiH School for Political Studies had been established. Now the School has started its practical work with a first seminar, held in Neum on 9-13 May 2003. The local structure responsible for the school is the Civil Society Promotion Centre (CSPC). Mr Fadil Sero, the Director of the CSPC, acts as the Director of the School. The Multilateral Academy, a German non-governmental initiative, contributed to the organisation of the first seminar. The School managed to bring together a group that represented all parts and communities of BiH, including young political party members, public officials and media representatives. For many young leaders this was the first occasion to discuss and permanently interact over a period of four days. The CoE welcomes its successful start and will continue to support the School.

#### IV. OVERVIEW TABLE FOR THE COUNCIL OF EUROPE POST-ACCESSION COOPERATION PROGRAMME

52. A post-accession programme (pap) was adopted at the time of the Committee of Ministers decision on BiH accession to the Council of Europe (Resolution (2002)5). The adoption of the programme followed an exchange of views in GR-EDS at its meetings on 15 February and 1 March 2002. The programme, reproduced in its final format in document GR-EDS (2002)11 rev, was in force for one year following accession, assisting the authorities with the fulfilment of the undertaken commitments and obligations. The programme was modelled on PACE Opinion 234 (2002) and mirrored the various monitoring procedures, primarily the monitoring following accession established by the Committee of Ministers. The post-accession programme was not exhaustive of all aspects of co-operation with Bosnia and Herzegovina but offered considerable additional resources for the first intensive year of BiH membership of the Organisation.

53. Below a table is reproduced which gives a first summary of programme measures by commitment.

54. The co-operation with BiH is now continuing at a significant level. It deserves particular mentioning that four separate contracts have been/will be concluded with the European Commission (EIDHR and CARDS) for joint programmes to the benefit of Bosnia and Herzegovina.

COUNCIL OF EUROPE STRATEGIC OBJECTIVES (I-V)	ACCESSION COMMITMENTS ACCORDING TO OPINION 234 (2002) (adopted by the Parliamentary Assembly on 22 January 2002)	IMPLEMENTATION OF THE POST-ACCESSION PROGRAMME	
		ACTIVITIES IMPLEMENTED	COUNCIL OF EUROPE ACTIVITY DATABASE (CEAD) REFERENCE NUMBER AND ADDITIONAL INFORMATION
<b>OBJECTIVE I</b>  <b>TO PROTECT AND PROMOTE RESPECT FOR HUMAN RIGHTS IN ALL MEMBER STATES WITHOUT DISCRIMINATION</b>	<p>a) ratification, as soon as possible and not later than within one year of membership, of the European Convention on Human Rights and Protocols N° 1,4,6, 7 and 12 (Opinion 234, (2002), par. 15, iii. b);</p> <p>b) continuous compatibility examination of all legislation with the European Convention on Human Rights (Opinion 234 (2002), par. 15, iii.c);</p> <p>c) signature and ratification, within a year of accession, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and its Protocols (Opinion 234 (2002) par. 15, iii.d);</p>	<p>A compatibility conference took place on 12-13 December 2002 in Sarajevo. The follow-up is planned in the framework of the Joint Programme (creation of working groups and follow up meetings scheduled July-December 2003).</p> <p>An information seminar was held in Sarajevo on 27-28 March 2003.</p>	<p>CEAD 4491</p>

	<p>d) to sign, within two years after its accession, the Council of Europe's Social Charter, to ratify it as soon as possible and, in the meantime, to endeavour to implement a policy in accordance with the principles it contains (Opinion 234 (2002) par. 15, iii.j);</p> <p>e) co-operation with the institutions active in the human rights field at State level and in the Entities and, in particular, to comply fully with the decisions and recommendations of the Human Rights Chamber and Human Rights Ombudsman (Opinion 234 (2002), par. 15, v.a);</p> <p>f) ensuring adequate funding of the human rights institutions, in particular of the Human Rights</p>	<p>Revised European Social Charter: The following translations were done and published in Bosnian, Croatian and Serbian: - the Charter at a glance; the 1961 European Social Charter; the 1988, 1991 and 1995 Protocols, and the 1996 revised European Social Charter; as well as 1) in Bosnian: the Explanatory report to the revised European Social Charter and the Explanatory report to the 1995 Protocol providing for a system of collective complaints; and 2) in Croatian: the Form for the reports to be submitted in pursuance of the 1961 European Social Charter.</p> <p>The activity is completed. The first information seminar on the revised European Social Charter in BiH took place in Sarajevo on 22-23 May 2003. BiH authorities are preparing the signature of the revised European Social Charter.</p> <p>The Government Agent is not yet appointed. (This would constitute the main part of the support under this item.)</p>	<p>(Seminar on the Revised European Social Charter). Activity postponed from March to May 2003). CEAD 4147</p>
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Chamber, the Human Rights Ombudsman and the Commission for Real Property Claims (CRPC) immediately and continuously (with a yearly minimum of KM 600.000, - to be progressively increased over time). (Opinion 234 (2002), par. 15, v.b)

g) working towards establishing multi-ethnic Ombudsmen and to consider establishing, in the long-term, a single, unified Human Rights Ombudsman's Office at State level, which would include the present Ombudsmen institutions at Entities level (Opinion 234 (2002) par 15, v.c);

h) ensuring the full implementation of the property laws and, in particular, abide fully by the decisions of the Commission for Real Property Claims (CRPC) (Opinion 234 (2002) par. 15, v.d);

i) to continue restructuring human rights protection mechanisms in accordance with the recommendations of the Venice Commission, and in co-operation with the Council of Europe and the Office of the High Representative (Opinion 234 (2002) par. 15, v.e);

A workshop for the Ombudsman institutions of the two Entities is planned. (Dates remain to be fixed; to be carried out outside the post-accession programme)

No specific activity carried out under the post-accession programme.

The Constitutional Court is not yet fully constituted and the transfer of responsibilities from the Human Rights Chamber is becoming a reality only after the end of the PAP, therefore the activities could not be organised.

	<p>j) to implement the legislation to guarantee the independence of the Ombudsman institutions at state as well as Entity levels including amendments to the FBiH Ombudsmen Law drafted by the Venice Commission (Opinion 234 (2002) par. 15,v.f);</p> <p>k) continuing the reforms aimed at the establishment of a professional and independent judicial and prosecution system as well as to continue facilitating the expeditious and fair review of sitting judges and prosecutors and to assist the Independent Judicial Commission (Opinion 234 (2002) par. 15, v.g);</p> <p>l) to ensure adequate funding for the Constitutional Court and for the judiciary with a view to reinforcing their independence (Opinion 234 (2002) par. 15, v.h);</p> <p>m) to adopt, within 3 years after its accession, laws on conscientious objection and alternative service (Opinion 234 (2002) par. 15, v.j);</p> <p>n) to continue reforms in the field of the media, in order to guarantee the</p>	<p>No specific activity (see g. above).</p> <p>The reforms are still under way and the CoE is closely associated to it, together with the OHR and the IJC. Specific complementary programmes, notably joint programmes with the European Commission, are currently being finalised, aiming at following these reforms and facilitating their implementation through adequate judicial training structures, preparing training materials and commentaries and continuous presence of our resident expert in Sarajevo.</p> <p>Production and translation of the booklet “conscientious objection” including Recommendation R (87) 8 is being prepared.</p> <p>Legislative work on public service broadcasting and defamation was carried out at the State-level,</p>	<p><i>Presence of Ms Monica Macovei as CoE resident expert on judicial and legal reforms, within the Independent Judicial Commission (CEAD 3421 &amp; 4618). The Resident Expert, sometimes with additional CoE experts, worked on matters like the High Judicial and Prosecutorial Councils (laws –CEAD 3206- and rules of procedure-CEAD 3812), judge’s careers and disciplinary matters, draft law on administrative disputes, draft law on minor offences, draft code of civil procedure, laws on courts, code of enforcement of civil decisions (CEAD 1298), book of rules for the courts, law on lawyers (CEAD 2259).</i></p> <p>A conference on "The implementation by BiH of Council of Europe standards in the broadcasting</p>
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	<p>freedom of expression and journalists' independence (Opinion 234 (2002) par. 15, v.l);</p> <p>o) to institutionalise the police academies set up under the aegis of the international community and to continue reforms aimed at establishing multi-ethnic police forces (Opinion 234 (2002) par. 15, v.m);</p> <p>p) to abide by the decisions of the United Nations International Police Task Force (IPTF) and to fully cooperate with it (Opinion 234 (2002) par. 15, v.n);</p> <p>to adopt and to implement a revised Law on Internal Affairs in both Entities (Opinion 234 (2002) par. 15, v.p).</p>	<p>indicating positive steps towards the accession commitment of "continuing reforms in the media field". The broadcasting sector developed more orderly than the press sector. In the latter, media responsibility is still to be improved. The authorities showed interest in ratification of the European Convention on Transfrontier Television - accession to this Council of Europe instrument would help the reform process.</p> <p>Fact-finding mission carried out in March 2003 All three police academies provide a sufficient number of lessons on human rights to the participants of all kinds of courses they carry out - basic and internal training. They also cover human rights aspects during lessons on other - general policing - subjects.</p> <p>Expert meetings for the two Entities took place in April and May 2002.</p>	<p>field" was organised on 15 November 2002, in cooperation with the Communications Regulatory Agency (CRA). (Seminar on the Implementation by Bosnia &amp; Herzegovina in the Broadcasting Field (CEAD No: 1635)).</p> <p>(CEAD ID# 2680 - Fact-finding mission).</p> <p>CEAD ID# 302 &amp; 3014</p>
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<p><b>OBJECTIVE II</b></p> <p><b>TO FOSTER THE SETTING UP AND DEVELOPMENT OF DEMOCRATIC INSTITUTIONS AND PROCEDURES AT NATIONAL, REGIONAL AND LOCAL LEVEL</b></p>	<p>a) the European Charter for Regional or Minority Languages (signature and ratification, within two years after its accession) (Opinion 234 (2002) par. 15, iii.g);</p> <p>b) the European Charter of Local Self-Government (signature and ratification within two years after accession) (Opinion 234 (2002) par. 15, iii.h);</p> <p>c) the European Outline Convention on Transfrontier Co-operation and its Protocols (Opinion 234 (2002), par. 15, iii.i);</p> <p>d) review within one year, with the assistance of the European Commission for Democracy through Law (the Venice Commission), of the electoral legislation in the light of Council of Europe standards, and to revise it where necessary (Opinion 234 (2002) par. 15, iv.b) .</p>	<p>Draft law of the Federation on local self-government: legal expertise.</p> <p><u>Launching of the programme “development of democratic citizenship and responsive leadership”.</u></p> <p>Preparation of a handbook on building up participatory democracy at local level.</p> <p>Seminar on the establishment of a Euroregion in the border regions of Bosnia and Herzegovina, Croatia and Serbia and Montenegro</p>	<p>CEAD 3393</p> <p><b>CEAD 4335 &amp; 5041</b></p> <p>CEAD 5036</p> <p>CEAD 3718</p>
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	<ul style="list-style-type: none"> <li>• Within this strategic objective it is also important that the co-operation with Bosnia and Herzegovina makes full use of the Council's opportunities <u>to promote and strengthen civil society</u>, notably through the Confidence-building Measures Programme (the CBM programme, where BiH activities are already underway), the Democratic Leadership Programme (DLP; alumni in BiH) and other Council of Europe support to civil society initiatives.</li> </ul> <p>Furthermore, within the strategic objective 2 of the Council of Europe it is stated that the Council of Europe needs to 'ensure <u>presence in the field</u> in order to increase the effectiveness of its programmes while increasing its visibility and political role'. In line with this objective (and Opinion 234 (2002) par. 21, ii), the Secretariat Office should be given the fullest political and material support, as the main facilitator of the country co-operation strategy.</p>	<p>The field presence in BiH was reinforced in the summer of 2002.</p>	<p>In 2002-2003 BiH has benefited/is benefiting from 10 CBM projects.</p> <p>Continuous participation from BiH in the DLP programme.</p>
<p><b>OBJECTIVE III</b></p> <p><b>ENSURE THE OBSERVANCE OF THE RULE OF LAW</b></p>	<p>a) adoption and implementation, within one year after its accession, constitutional and legislative amendments necessary to comply with</p>		

	<p>the decision of the Constitutional Court on the “constituent peoples of Bosnia and Herzegovina” of June-July 2000 (Opinion 234 (2002) par. 15, iv.a);</p> <p>b) adoption, within six months after its accession, if it has not yet been done, of the laws which have been temporarily imposed by the High Representative (Opinion 234 (2002) par. 15, iv.c);</p> <p>c) adoption and implementation of the following laws, within two years after accession:</p> <p>-Law on Immigration and Asylum (BiH);</p> <p>-Law on Recognition of Public Documents (BiH);</p> <p>- Law on Associations and Foundations (BiH, Entities);</p>	<p><u>A BiH law was adopted in 1999, the new law has not yet been adopted.</u></p> <p><u>Expert assistance and study visit for BiH officials in charge of implementing the law.</u> The laws have been adopted</p>	<p><u>Legal expertise on the law on immigration and asylum, and training of judges on the European standards applicable to the matter. (CEAD 1292)</u> A meeting between Ministry of Human Rights and Refugees on the BiH Immigration and Asylum Law and one of the Council of Europe experts was held in Sarajevo on 11 December 2003.</p> <p><u>CEAD ID# 1294; 4933</u></p>
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	<p>- Law on Citizenship (FBiH);</p> <p>- Criminal Code and Criminal Procedure Code (BiH, Entities);</p> <p>(Opinion 234 (2002) par. 15, iv.d)</p> <p>d) adoption and full implementation, within one year after its accession, the Law on the Civil Service in the Governmental Institutions of BiH, already adopted by the BiH Council of Ministers (Opinion 234 (2002) par. 15, iv.e)</p> <p>e) to increase efforts to combat corruption within the judicial and prosecution system and the police as well as in the administration (Opinion 234 (2002) par. 15, v.o); the Criminal and Civil Law Conventions on Corruption have been ratified by BiH on 30 January 2002)</p> <p>f) signature and ratification, within two years after its accession, of the following conventions:</p> <ul style="list-style-type: none"> <li>- the European Convention on the Suppression of Terrorism;</li> <li>- the European Convention on the</li> </ul>	<p>Federation law adopted.</p> <p>The criminal and criminal procedure codes of BiH have been promulgated. The harmonisation exercise with the Entity codes is under way.</p> <p><b><i>A draft law on the civil service is being prepared. As soon as it is received, a legal expertise will be carried out (outside the post-accession programme).</i></b></p> <p>PACO activities with BiH participation carried out 2002-2003.</p>	<p>Expert appraisal and expert meeting on the draft amendments to the law on citizenship. (CEAD 1293)</p> <p>Presence of the CoE resident expert on criminal reforms, working within the OHR legal department. The expert assisted in the drafting of the BiH criminal and criminal procedure code, together with the drafting working group. Several additional legal appraisals and expert meetings have taken place (CEAD 4515, 3953, 1302 &amp; 2743).</p>
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	<p>Transfer of Proceedings in Criminal Matters ;</p> <ul style="list-style-type: none"> <li>– the European Convention on the Compensation of Victims of Violent Crimes;</li> <li>– the European Convention on Extradition,</li> <li>– the European Convention on Mutual assistance in criminal matters,</li> <li>– the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime,</li> <li>– the Convention on the Transfer of Sentenced Persons</li> </ul> <p>(signature and ratification, within two years after accession and, in the meantime, application by BiH of their fundamental principles)</p> <p>and, within three years after its accession:</p> <ul style="list-style-type: none"> <li>– the European Convention on Cybercrime.</li> </ul> <p>(Opinion 234 (2002) par. 15, iii.i and iii.k)</p>		
<p><b>OBJECTIVE IV</b></p> <p><b>TO PROMOTE A EUROPEAN CULTURAL IDENTITY, WHILE TAKING INTO ACCOUNT EUROPE'S CULTURAL</b></p>	<p><i>In Opinion 234 (2002) par. 12, the Parliamentary Assembly considers education to be one of the most critical factors both for establishing democratic stability in Bosnia and Herzegovina and for bringing about the return of refugees and displaced persons.</i></p>		

<p><b>DIVERSITY AND HERITAGE, WITH SPECIAL EMPHASIS ON THE ROLE OF EDUCATION</b></p>	<p>- to maintain and continue reform in the field of education and to eliminate all aspects of segregation and discrimination based upon ethnic origins.</p> <p><i>Opinion 234 (2002) par. 15, v.k)</i></p> <p>- to adopt the Law on Schools (BiH; Entities; within two years from accession; <i>Opinion 234 (2002) par. 15, iv.d)</i></p> <p>- to sign and ratify, within two years of accession, the joint Council of Europe and Unesco Convention on the</p>	<p>Education Reform Agenda is adopted (PIC) and supported by the International Community</p> <p>Common Core Curriculum Steering Group (CCCSG) is established and work is on-going to develop common history curriculum</p> <p>Draft law on primary and secondary education was drafted by CoE expert team and has been adopted by the Council of Ministers. BiH Assembly will consider the text under an urgent procedure in June. A drafting team has commenced work drafting a prototype or model law for the Entities and Cantons.</p> <p>Draft law on higher education is currently open for public consultation. the draft will be finalised and submitted to the BiH Ministry for Civil Affairs by July 2003.</p>	<p><b><i>CoE co-chairing of the Conference of Entity Ministers of Education (BO) and has been co-funding/chairing both the HE working group and the education legislation working group of the EISSG in BiH since September 2002 (BO)</i></b></p> <p>Between July 2002 and June 2003 10 teacher training seminars were held in Brcko for 350 teachers under a voluntary contribution from the UK and a special allocation of the Ordinary Budget. From March 2003 another series of teaching materials and seminars has been launched under the JP BiH. CoE co-funds and supports CCCSG with OSCE.</p> <p>A seminar on history curriculum in BiH was held in December 2002 (BO special allocation for education in BiH), under PAP CoE materials concerning history teaching have been translated and distributed in BiH, current BiH have been translated into English, and an expert meeting 10-11 June 2003. CEAD 4701 &amp; 4716</p> <p>Under the PAP a CoE drafting group has been preparing a draft law on higher education since February 2003 (will be submitted to the BiH Ministry for Civil Affairs by July 2003).</p>
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	<p><i>Recognition of Qualifications concerning Higher Education in the European Regions (Opinion 234 (2002) par. 16).</i></p>	<p>The Council of Ministers endorsed the Lisbon Recognition Convention in April 2003.</p>	<p>CEAD 5121, 4682 &amp; 6017</p> <p>2 seminars have been held on higher education reform and the Lisbon Convention. A study visit for members of the HECB on the establishment and functioning of the ENIC is planned for summer 2003. CEAD 4386, 4681, &amp; 6048</p>
<p><b>OBJECTIVE V</b></p> <p><b>TO PROMOTE TOLERANCE, SOCIAL COHESION AND SOCIAL RIGHTS.</b></p>	<p>a) Implementation of a policy in accordance with the principles contained in the European Social Charter, which Bosnia and Herzegovina commits to sign within two years after its accession and ratify as soon as possible (Opinion 234 (2002) par. 15, iii.j).</p> <p>b) Implement a policy to ensure the full implementation of the property laws, and, in particular, abide fully by the decisions of the Commission for Real Property Claims (Opinion 234 (2002) par. 15, v.d).</p> <p>c) Implement a policy in accordance with the Geneva Convention relating to the Status of Refugees and its 1967 Protocol, which Bosnia and Herzegovina commits to sign and ratify within one year after its accession, and take all necessary measures for the expedient and safe return of refugees and displaced persons and to create the conditions for sustainable and safe return (Opinion 234 (2002) par. 15, iii.f).</p>	<p>Activity Completed. Training Seminar, 28-29 April 2003</p> <p>Project to promote sustainable return IDP's and refugees</p>	<p>Part I/Pre-accession programme (CEAD # 4560)</p>







## **Appendix**

### **Council of Europe Press Release**

#### **Bosnia and Herzegovina marks first anniversary of entry into Council of Europe**

Strasbourg, 24.04.2003 - Council of Europe Secretary General Walter Schwimmer has welcomed the first anniversary of Bosnia and Herzegovina's entry into the 45-nation Organisation. "Exactly one year ago today, the country took a very important step along the path towards the European integration process, when it joined the Council of Europe", said Mr Schwimmer. "Membership of our Organisation has already brought many benefits, but more efforts are needed to build on the progress already made", he added.

"Bosnia and Herzegovina should now focus on the reforms that will build the rule of law and a strong economy, which are the main goals that the international community wants the country to achieve. We understand why the people of Bosnia and Herzegovina are impatient, so it would be best to see the results of reforms as soon as possible", he concluded.

#### **Press Contact**

Council of Europe Spokesperson and Press Division

Tel. +33 3 88 41 25 60 - Fax. +33 3 88 41 39 11

E-mail: [PressUnit@coe.int](mailto:PressUnit@coe.int)