



Information Documents

SG/Inf (2004)17 9 June 2004

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

Document presented by the Secretary General

Seventh Report (March - May 2004)

Executive Summary

Two years into Bosnia and Herzegovina's (BiH) membership of the Council of Europe (CoE), the following elements can be stressed:

- There has been a **distinct strengthening of the State level institutions** (i.e. Council of Ministers, State Judiciary, Human Rights institutions). Competences of former institutions set up by the Dayton Agreements have been **transferred to the BiH authorities** (e.g. Human Rights Chamber).
- **Most specific deadlines have been respected**, at least formally (adoption of legislation, signature and/or ratification of CoE Conventions), but not all of them (e.g. a set of Conventions in the penal field have been recently signed but not ratified). More emphasis on concrete implementation of decisions/legislation is required. It should also be noted that the draft Law on Local-Self-Government in Republika Srpska (RS) has recently been finalised with the assistance of CoE experts.
- As already stated in the last report, BiH authorities **will have to accelerate significantly the pace of reform** if they are not to undermine the country's ambitions to join the Euro-Atlantic structures. This was also underlined by the Peace Implementation Council in April 2004. Contrary to the strategic overall objective of BiH's membership in the CoE, i.e. developing ownership and domestic responsibility, **constant pressure** by the international community is still needed to achieve progress. The failure of the authorities to adopt the necessary legislation on **education** within the agreed deadlines and the reported obstruction of RS authorities in the work of the **Srebrenica Commission** are two regrettable setbacks. The Srebrenica Commission's final report -due in June 2004- and progress on education at State level and in the Federation, will be key tests for the authorities. Concrete results are also expected following the latest declaration on cooperation with the **ICTY**.
- **Reinforcing BiH's Statehood, reform ownership and integration into Europe** remain strategic objectives for the CoE.

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Appendices

I. INTRODUCTION

1. Bosnia and Herzegovina (BiH) joined the Council of Europe (CoE) on 24 April 2002. Accession of BiH to the CoE followed 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, as well as the specific issues which were the subject of an exchange of letters between the BiH authorities and the Chair of the CoE Committee of Ministers.

2. The present report is the seventh 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 programmes¹. It provides an update of the previous report and a stock-taking of the compliance with obligations and commitments undertaken upon accession after two years of membership in the CoE (24 April 2004).

3. It should be noted that the CoE Ministers' Deputies had an exchange of views with Ambassador Michael B. Humphreys, Head of the European Delegation to BiH, on 26 March 2004 and with the President of the ICTY, Mr T. Meron, on 7 May 2004. In addition, the CoE Secretary General, Mr W. Schwimmer, visited BiH on 21-22 April 2004. He opened a Conference of Mayors on Local Democracy in BiH, organised to mark the country's two year membership at the CoE and attended the Summit of Heads of State and Government of the South-East European Co-operation Process chaired by BiH.

4. In order to guide the work of the CoE, notably the co-operation programmes, a number of priority matters have been identified in the fields of democratic institutions, human rights, rule of law and education. These priority matters appear in boxes in each relevant chapter below .

II. MAIN CONCLUSIONS

5. **After two years of CoE membership**, the following elements can be stressed:

- There has been a distinct strengthening of the State level institutions (i.e. Council of Ministers, State Judiciary, Human Rights institutions). In addition, competences of former institutions set up by the Dayton Agreements (Human Rights Chamber, Commission for Real Property Claims) have been transferred to the BiH authorities and the State Ombudsman institution has been nationalised.
- Most specific deadlines have been respected, at least formally (adoption of legislation, signature and/or ratification of Conventions, but not all of them

¹ The first six reports were presented in July 2002 [SG/Inf(2002)27], November 2002 [SG/Inf(2002)40], March 2003 [SG/Inf(2003)9 and Addendum], June 2003 [SG/Inf(2003)21 and Addendum], October 2003 [SG/Inf(2003)36 and Addendum] and March 2004 [SG/Inf(2004)10 and Addendum].

(see para. 9 below)). However, concrete implementation of decisions/legislation remains a matter of concern.

- As stressed in the last report, representatives of the International Community in BiH consider that the current rate of reform in BiH is too slow; in addition, constant pressure by the international community is still needed to achieve progress. This is contrary to the strategic overall objective of BiH's membership in the CoE, i.e. developing ownership and domestic responsibility. The optimism which had prevailed at the end of last year and early 2004 after adoption of legislation on defense, intelligence, indirect taxation and education, has faded in the last months; the Peace Implementation Council (PIC) Steering Board on 1st April 2004 concluded that BiH authorities will have to accelerate significantly the pace of reform if they are not to undermine the country's ambitions to join the Euro-Atlantic structures.

6. More specifically, as concerned its first year of membership, BiH fulfilled major commitments within foreseen deadlines - with the exception of the revision of the electoral law (which is now underway but not completed) and the General Agreement on Privileges and Immunities (now signed and ratified). Commitments fulfilled included in particular BiH's accession to key Human Rights treaties, the implementation of constitutional amendments, the successful organisation of the 5 October 2002 elections and the adoption of several laws in the field of justice and education. This was certainly a significant achievement, which now requires due follow-up.

7. Commitments to be fulfilled by the end of the second year of membership (24 April 2004) were more difficult to achieve because they included the signature and ratification of a series of conventions (such as the European Convention on the Fight against Terrorism, the Charter on Regional and Minority Languages, the European Social Charter and Conventions in the penal field) which do not arise from the Dayton Agreements and therefore require more pro-active measures on the part of the authorities of BiH, both at State and Entity level. More importantly, BiH was expected to implement Conventions already ratified as well as legislation adopted and to continue progress in the priority areas defined in the fields of democratic institutions, human rights, rule of law and education. BiH encountered difficulties in this process and fulfilment of some commitments has been delayed (see para. 9 below). This delay is particularly harmful, as some of these commitments are directly linked to the feasibility study for a future Stabilisation and Association Agreement (SAA) with the European Union: the first of the 16 preconditions for the conclusion of the SAA, includes the **“implementation of BiH's CoE post-accession criteria, especially in areas of democracy and human rights”**. In addition, a number of the other preconditions are directly linked to concrete CoE post-accession commitments. They concern good governance, the judiciary, the fight against corruption and organised crime and the reinforcement of human rights protection mechanisms.

8. **Since the last report**, the following should be underlined:

A. Democratic institutions

- A Minister of Defense was appointed in March 2004 and the Law on a single Intelligence and Security Agency was adopted.
- In April 2004, the BiH Parliament amended legislation on municipal elections (see para. 15). A comprehensive reform of the electoral legislation is still expected. The FBiH Parliament also adopted a law on direct elections of mayors.
- The RS draft law on Local-Self-Government has been completed with the assistance of CoE experts and adopted at its 1st reading; related legislation is now expected. No similar progress was registered in the FBiH.
- The European outline Convention on Transfrontier Cooperation – to be signed and ratified by the end of April 2004 - was signed on 30 April 2004 (but has not yet been ratified).

B. Human rights

- The overdue 'compatibility exercise' of BiH legislation with the ECHR has now started. This positive development needs to be pursued.
- The principles, as well as the procedure and time-frame of the restructuring of the Ombudsman institutions in BiH were agreed at a working meeting organised by the Venice Commission on 19 April 2004. However, instead of working on developing a coherent plan for the restructuring based upon sound analyses (financial, best practices, organisational rules, application procedures, etc), the competent Ministry and Ombudsman institutions have been mired in "interpreting" or contesting the agreed principles.
- BiH and Entities' authorities have issued a joint statement on cooperation with the ICTY. Concrete results are still expected (i.e. arrests and transfers to the ICTY).
- The European Social Charter was signed on 11 May 2004.

C. Rule of law

- The Law on a single High Judicial and Prosecutorial Council (HJPC) at State level was adopted on 21 May 2004, which will further reinforce the judiciary at State level.
- On 30 March 2004, BiH signed and ratified the Convention on Laundering, Search, Seizure and Confiscation of the proceeds from crime.
- On 30 April 2004, BiH signed the European Conventions on Extradition; on Mutual assistance in criminal matters; on the Transfer of sentenced persons; on the Transfer of proceedings in criminal matters; and on the Compensation of victims of violent crimes, which were to be signed and ratified by 24 April 2004.

D. Education

- The RS and six out of 10 Cantons in FBiH have adopted laws in conformity with the State framework law on primary and secondary education.

9. A number of commitments have **not been fulfilled within the set deadlines**, in particular in the following fields:

- Revision of electoral legislation (within one year of membership): a comprehensive reform is still expected, in which the Venice Commission ought to be associated.
- Education (within two years): four out of 10 Cantons in the FBiH have not yet adopted fully acceptable legislation on primary and secondary education and the BiH Parliament has failed to adopt legislation on higher education, which resulted in the loss of 42 million USD World Bank assistance (12 million of which was for higher education).
- Signature and/or ratification of Conventions:
 - the European Charter for Regional or Minority Languages (ECRML) has not yet been signed;
 - the European Outline Convention on Transfrontier Co-operation (and protocols) has not yet been ratified;
 - Conventions on extradition; on mutual assistance in criminal matters; on the transfer of sentenced persons; on the transfer of proceedings in criminal matters; on the compensation of victims of violent crimes have been signed but not ratified.

10. In addition, insufficient progress has been reported regarding compliance with commitments without specific deadlines, as in the field of education (eliminate all aspects of segregation and discrimination based upon ethnic origins: there are still over 50 “Two schools under one roof” i.e. separate classes for Croat and Bosniak children in FBiH), and cooperation with the ICTY.

11. A stock-taking of the CoE co-operation and assistance programmes for BiH will be made in the next monitoring report, which is due in early autumn. This report will be prepared after a Secretariat mission to BiH and the next Steering Committee meeting for the main BiH Joint Programme between the European Commission (EIDHR) and the CoE. The Steering Committee meeting will take place on 16 September 2004.

III. DEMOCRATIC INSTITUTIONS

A. 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

Reinforcing BiH Statehood, reform ownership and integration into Europe

12. In March 2004, Mr Nikola Radovanovic took office as BiH's first post-war Minister of Defense. The Law on a single Intelligence and Security Agency was also adopted in March 2004.

13. However, on 1st April 2004, the Steering Board of the Peace Implementation Council (PIC) concluded that the BiH authorities will have to accelerate significantly the pace of reform if they are not to undermine the country's ambitions to join the Euro-Atlantic structures. It also stressed that the current inability to finance

effectively BiH's growing responsibilities at the State level threatens BiH's future as a functional and viable state. Further elimination of duplication of functions at lower levels of government will be necessary. It urged in particular the BiH authorities to address the pressing need to downsize public administration at Entity level and below, appropriate to the strengthening of State institutions². In addition, the 2004 Stabilisation and Association Report for BiH, issued by the European Commission on 30 March 2004, concludes that the "government at State level remains under-developed, while tensions between State and Entities still affect government business and reform. Reforms such as that of the public administration and of the defence sector have the potential, if fully implemented, to move BiH towards self-sustainability"³.

14. The failure of State and FBiH authorities to adopt the necessary legislation on education within the agreed deadlines and the reported obstruction of RS authorities in the work of the Srebrenica Commission (see parts IV and VI below) have overshadowed other progress. Politicians still have to fully demonstrate that they are prepared to put the interest of the State of BiH above other interests.

Election Legislation in BiH

15. Revision of the electoral law, in cooperation with the Venice Commission was one of BiH post-accession commitments to be fulfilled by the first year of BiH's accession to the CoE. In April 2004, the BiH Parliament amended legislation regarding municipal elections but as the amendments were published after official deadline for the elections, only those of a technical nature will apply for the October 2004 elections. Amendments relating to representation of national minorities (i.e. 'the Others', according to the BiH Constitution) will not be taken into account. Representatives of national minorities in BiH expressed concern since they are not eligible to run for these elections. A comprehensive reform of election legislation is still expected.

16. Amendments to the existing FBiH legislation have also allowed the direct elections of mayors for the local elections to take place on 2 October 2004.

B. Development and functioning of local democracy (powers and finances)

17. The European Outline Convention on Transfrontier Cooperation – to be signed and ratified by the end of April 2004 - was signed on 30 April 2004 (but has not yet been ratified).

18. The RS draft law on Local-Self-Government was finalised with the assistance of CoE experts and adopted at its 1st reading. This law sets the framework within which related legislation, should be prepared. The CoE stands ready to provide assistance in the preparation and implementation of a mid-or long term strategy in which the legislative reform could be completed. The creation of an independent Agency for Local Government Staff would also be welcome.

² <http://www.ohr.int> 'Communiqué by the PIC Steering Board, 1st April 2004.

³ <http://www.delbih.cec.eu.int/en/worddocuments/word240.htm>.

19. As concerns the FBiH, constitutional amendments necessary for the reform of the FBiH law on Local-Self-Government have not been adopted. The CoE stands ready to provide assistance in the preparation of new amendments and revised law on Local-Self-Government.

20. Harmonisation of the legal framework for Local-Self-Government in RS and the FBiH could also be improved by the transfer of certain competences to the State level. Here also, the CoE is ready to provide its expertise. Finally, it should be noted that the financing of a comprehensive reform of local-self-government has not yet been foreseen.

21. The provisions for the new status of Mostar came into force on 15 March 2004. The united city will have one mayor, one budget and one single city administration. Bearing in mind the past experience of fierce opposition, this will be a major achievement. In this context, preparations for the opening of a Local Democracy Agency (LDA) in Mostar, in partnership with European cities and regions, are progressing. Financial and other support from CoE member States to the creation of the Mostar LDA would be most helpful.

IV. HUMAN RIGHTS

A. Human Rights institutions (after expiry of the mandate of the Dayton human rights institutions)

Restructuring of the Ombudsman institutions in BiH

22. The principles, as well as the procedure and time-frame of the restructuring of the Ombudsman institutions in BiH were agreed at a working meeting organised by the Venice Commission on 19 April 2004⁴. As to the principles, it was agreed, *inter alia* that the final merger of the institutions will be accomplished through a transitional period during which the three institutions will co-exist; the number of ombudsmen must gradually be reduced, first from nine to three and then from three to one; during the transitional period there will be three institutions, each with one ombudsman and two deputies; the existing infrastructures, including those of the entities' institutions, must be preserved, while rationalised; the current level of human rights protection must also be preserved.

23. As to the procedure and time frame, it was agreed that the concept of the future ombudsman institution of BiH has to be decided at the outset and the manner of achieving it is to be decided next. A detailed plan of the restructuring should be finalised and submitted to the BiH Council of Ministers and subsequently, notably to the Venice Commission by 30 May 2004. However, there has been no systematic follow-up by the BiH authorities to the meeting in Strasbourg and no detailed plan has been prepared to date. On the contrary, opposite positions have been taken. The CoE and the Venice Commission expect to receive such a detailed draft plan shortly and stand ready to assist the authorities in the restructuring as agreed in April 2004.

⁴ See CDL-AD(2004)28, dated 20 April 2004 « Agreed conclusions of the working meeting on « restructuring Ombudsman institutions in Bosnia and Herzegovina ».

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

24. During an exchange of views with the CoE Ministers' Deputies on 7 May 2004, the President of the ICTY, Mr T. Meron welcomed the joint statement made on 14 April by State and Entities' authorities, in which they committed themselves to making a maximal effort to bring all indicted war criminals to justice and cooperate fully with the ICTY. However, Mr Meron also underlined a number of problems with the RS and called upon the RS authorities to strengthen their efforts in locating and apprehending individuals indicted by the ICTY, as mandated by the Security Council Resolution 1534. Concrete results are still expected. He also urged the RS to increase their efforts to investigate and try individuals responsible for war crimes within their domestic judicial system and emphasized the importance of the creation of a War Crimes Chamber within the BiH Court. In this respect, he underlined that the ICTY would not transfer any case to national judicial authorities as long as there was any doubt about their capacity to make impartial judgment. In a press statement on 12 May 2004, Judge Meron warned that the ICTY should not close before Messrs Karadzic and Mladic are tried.

25. On another but related issue, the authorities should be urged to take more active measures on the issue of missing persons. As underlined by the International Commission on Missing Persons (ICMP), a large number of missing persons often means that a significant part of the population does not, or does not fully, identify with the peace process. It also undermines trust in government and democratic institutions. Resolving the fate of missing persons is a crucial humanitarian and political task. It is a *sine qua non* to reconciliation and to the building of a peaceful future in common.

26. In this respect, the RS Srebrenica Commission is a key test for the RS: according to the High Representative, the interim report published on 14 April 2004 highlighted "sustained and systematic obstruction and inaction by the government of RS". Consequently, he dismissed a number of RS officials, including the RS ICTY Liaison Officer and decided to hold RS Ministers of Interior and Defense personally "responsible for ensuring a sea change in the cooperation and support offered by their institutions" and has required RS President and RS Prime Minister to take direct personal responsibility for ensuring the work of the Commission. He will also hold them ultimately responsible for ensuring that the Human Rights Chamber's legal requirements are met and that BiH's reputation and future are restored. On 16 April, the RS Government has delivered a Progress report to the High Representative. The final report is expected by 11 June 2004.

C. Sustainable return of refugees and displaced persons, on the basis of freedom of choice**Property Law Implementation (PLI)/restitution of property and handover**

27. According to the Property Law Implementation (PLI) agencies on 20 May 2004, stable progress is being made towards substantial completion: more than 99 % of the first instance decisions were issued and there are only 1,051 cases out of

216,802 submitted property claims yet to be resolved in BiH. However, the full transfer of responsibility for property law to the domestic authorities is not fully complete. Further, the FBiH draft Law on Changes and Amendments to the Law on the sale of Apartments with Occupancy Rights needs to be amended in line with the advice provided by OHR and OSCE, in order to meet the jurisprudence established by the Human Rights Chamber. It should be noted that if the legislation is amended appropriately some 800 applications pending before the Human Rights Commission of the Constitutional Court will be substantially resolved.

Returns

28. Since the signing of the Dayton Peace Agreement, UNHCR recorded the return of 989,080 refugees and displaced persons throughout BiH. Out of this number, 62% are Bosniak, 13% are Croat, 24% are Serb, and 1% are others. Since 1996, a total number of 437,270 so-called minority returnees has returned to their homes in Bosnia and Herzegovina (UNHCR, 11 May 2004). According to the UNHCR also, the overall security situation in BiH is of continuing concern despite the presence of SFOR and EUPM (UNHCR, 13 May 2004) and the set of issues to make returns sustainable are complex and range from ensuring the rule of law, continued reconstruction assistance and access to employment, health care, pensions, public utilities and an unbiased education system. In this respect, the authorities are encouraged to make best use of the recent accession of their country to the CoE Development Bank (CEB).

D. Other relevant issues

CoE Conventions in the field of Human Rights

29. A new impetus has now be given to the 'compatibility exercise' of BiH legislation with the ECHR: the first joint meeting of the CoE experts and members of the Working group from BiH mandated to draft a report on the compatibility of the Bosnian law and practice with regard to the requirements of the ECHR and the ECtHR case law was held on 2-3 June 2004 in the framework of the Joint Programme between the CoE and the European Commission. The Appointment of the Government Agent before the ECtHR is still expected.

30. The European Social Charter was signed on 11 May 2004. BiH has therefore respected its commitment set for the second year of membership. Efforts should now concentrate on the preparations for the ratification of the Charter with the assistance of the CoE.

31. The Framework Convention for the Protection of National Minorities (FCNM) Advisory Committee adopted its report on BiH on 27 May 2004. Following the adoption of the State Law on protection of rights of national minorities, in April 2003, the Entities are now preparing laws on this issue. As concerns minority protection, it should be reminded that the European Charter for Regional or Minority Languages was to be signed and ratified by the second year of BiH membership to the CoE (24 April 2004). To date, it would appear that no progress has been registered in this respect.

Freedom of expression and information

32. In April 2004, the BiH Council of Ministers adopted draft laws on Public Broadcasting System and Public Broadcasting Service in BiH. In March 2004, the High Representative urged the Council of Ministers to ensure that this legislation fully respect an Agreement signed by the State and Entities' Prime Ministers in November 2003. The CoE will provide an expertise of this legislation. These laws should set up a countrywide and sustainable Public Broadcasting System/Service in line with CoE standards.

33. On the other hand, the Communications Regulatory Agency for BiH has expressed concerns with respect to its financing (salaries of staff, contractors and capital investment) and the status of its employees.

V. RULE OF LAW

<h3>Functioning of the judicial system, particularly with regard to execution of court decisions and the fight against corruption and organised crime</h3>

A. Reform of the Judiciary

34. The mandate of the Independent Judicial Commission (IJC) ended on 31 March 2004. Following delays in the adoption of the Law on a single High Judicial and Prosecutorial Council (HJPC) at State level, the mandates of the existing High Judicial and Prosecutorial Councils were again extended until 31 May 2004. The HJPC Law was finally adopted on 21 May 2004. The single HJPC is foreseen to start on 1st June 2004. It should be followed by the establishment of a single BiH Judicial Training Centre. The Constitutional Court, and in particular its new Human Rights Commission, still needs to be reinforced.

35. On 30 March 2004, BiH signed and ratified the Convention on laundering, search, seizure and confiscation of proceeds from crime and on 30 April 2004, BiH signed the European Conventions on extradition; on mutual assistance in criminal matters; on the transfer of sentenced persons; on the transfer of proceedings in criminal matters; and on the compensation of victims of violent crimes, which were to be signed and ratified by 24 April 2004.

36. To allow proper functioning of the future War Crimes Chamber within the State Court, the establishment of State detention facilities is also necessary. The CoE, together with the State and Entity Ministries of Justice, is leading the process of reforming the BiH prison system (e.g. development of legislation at the State level on prisons, development of Staff training capacity; management training, health care in prison and detention options for persons to be tried by the future War Crimes Chamber).

B. Police reform

37. On 1st April 2004, the Steering Board of the PIC, expressed its support for the restructuring of the BiH police and the need to ensure the financial sustainability of the police sector. A Police Commission, headed by an international, will be

established in the course of June 2004. The European Commission functional review of the police in BiH (Financial, Organisational and Administrative Assessment of the BiH Police Forces and the State Border Service) was completed in May 2004 and will serve as a basis for the work of the Police Commission.

VI. EDUCATION

Adoption of education legislation at all levels, reform of curricula and eradication of all segregation in the school system.
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38. Despite considerable progress made in 2003 and early 2004 (i.e. introduction of common core curriculum and accession of BiH to the Bologna process), the reform of education is facing continuous obstructions in a number of areas resulting in the regrettable loss of millions of dollars in international financial assistance.

A. Eradication of segregation in schools

“Two schools under one roof” in the FBiH

39. Two Cantons have now taken the administrative steps for the administrative and legal unification of the “Two schools under one roof” (separate classes for Croat and Bosniak children). However, one Canton of the FBiH still refuses to do so, although this unification does not affect the language of tuition or the curriculum which children follow. There are still over 50 “Two schools under one roof” in FBiH.

40. The persistence of ethnically segregated schools in BiH is still a matter of grave concern for the CoE. Elimination of all aspects of segregation and discrimination based upon ethnic origins is not only one of the post-accession commitments undertaken by BiH, it is of the utmost importance for the peoples concerned and for the further European integration of BiH.

B. Legislation on Primary and Secondary Education

41. The State-level Framework Law on Primary and Secondary Education was adopted unanimously on 30 June 2003. Harmonised lower level legislation should have been adopted by the FBiH 10 Cantons, the RS and the District of Brcko. As of 8 June 2004, four Cantons have not yet fully harmonised their legislation with the State Law, thus bringing themselves into direct conflict with the State of BiH and its international obligations, in particular the CoE post-accession commitment to adopt legislation on education within two years after accession (i.e. 24 April 2004). On 25 May 2004, the FBiH Constitutional Court rejected the HDZ’s invocation of ‘Vital National Interest’ in one of these Cantons.

C. Higher Education

42. The State-level Framework Law for Higher Education, drafted by BiH and CoE experts, should have been adopted by the end of March 2004 to secure a World Bank loan package. This draft law specifically guarantees, inter alia, the recognition of BiH diplomas according to the same standards throughout Europe and student mobility and quality assurance. However, the State Parliament failed to adopt the law

following the invocation of the ‘Vital National Interest’ clause by BiH Croat representatives in the House of Peoples on 7 May 2004 on the ground that the draft law would not, in particular, guarantee that there will continue to exist at least one University in BiH with Croatian language as the official language. They also contest the transfer of competences of the Cantons to the Federation in the education policy. The BiH Constitutional Court must now rule on whether the Croat ‘Vital National Interest’ has been endangered. As a consequence of this delay, the World Bank confirmed that BiH has forfeited 12 million USD in funding that was earmarked for education restructuring projects. On 11 May 2004, the OHR, the CoE, the OSCE and the World Bank qualified the failure to adopt the law as a blow to the future of BiH: “either BiH moves forward without further delay toward a coherent, tolerant and enlightened public higher education system; or its young people, their families, and educators throughout BiH continue to pay an ever-increasing price for failure”.

VII. RECOMMENDATIONS FOR ACTION

A. Democratic institutions

- i. The action capacity of State institutions, in particular Ministries, must be strengthened. They should be provided with the necessary resources (human, material and financial);
- ii. A comprehensive reform of the electoral legislation is still expected;
- iii. Progress in the implementation of the European Charter of Local-Self-Government is necessary; in the FBiH, the adoption of constitutional amendments and revision of relevant legislation are still expected; in the RS, the legislative reform needs to be pursued. At the State level, ratification of the European outline Convention on Transfrontier Cooperation is still expected. Finally, the new status of Mostar should be fully implemented.

B. Human rights

- i. Following the ratification of European Convention on Human Rights (ECHR), the Government Agent to the European Court of Human Rights should be appointed as soon as possible;
- ii. The Ombudsman institutions in BiH should be restructured as agreed at the working meeting organised by the Venice Commission on 19 April 2004;
- iii. As regards cooperation with the ICTY, concrete results are still expected (i.e. arrests and transfers to the ICTY). The RS authorities should fully support and cooperate with the Srebrenica Commission and more active measures should be taken on the issue of missing persons;
- iv. A countrywide and sustainable Public Broadcasting System should be set up pursuant to the Agreement of November 2003; in addition, the effectiveness of the Communications Regulatory Agency, as an independent agency, should be maintained;

v. As regards implementation of property legislation, the FBiH draft Law on Changes and Amendments to the Law on the sale of Apartments with Occupancy Rights should be aligned with the jurisprudence established by the Human Rights Chamber. Continued efforts are requested, in particular in the economic and social fields (job creation), to promote sustainable return of refugees and IDPs;

vi. The situation of national minorities ('the Others', according to the BiH Constitution) deserves increased attention. Signature and ratification of the European Charter for Regional and Minority languages are still expected.

C. Rule of law

i. The establishment of the single High Judicial and Prosecutorial Council (HJPC) at State level should be accompanied by the creation of a single BiH Judicial Training Centre and State detention facilities. The Constitutional Court, and in particular its new Human Rights Commission, still needs to be reinforced. Full support should also be provided for the establishment of the new War Crimes Chamber within the State Court;

ii. BiH should step up process for the ratification of European Conventions in the penal field.

D. Education

i. The situation in a number of schools in FBiH which still apply the principle of 'two schools under one roof' should be put to an end without further delay by the completion of their administrative unification;

ii. All Cantons in FBiH should adopt laws in conformity with the State framework law on primary and secondary education without further delay.

Appendix 1:**Treaties signed and ratified or having been the subject of an accession as of
8/6/2004**

No.	Title			Opening of the treaty	Entry into force	E.	N.	C.
001	Statute of the Council of Europe			5/5/1949	3/8/1949			
		Ratification or accession: 24/4/2002	Entered into force: 24/4/2002					
002	General Agreement on Privileges and Immunities of the Council of Europe			2/9/1949	10/9/1952			
		Ratification or accession: 3/10/2003	Entered into force: 3/10/2003					
005	Convention for the Protection of Human Rights and Fundamental Freedoms			4/11/1950	3/9/1953			
	Signature: 24/4/2002	Ratification or accession: 12/7/2002	Entered into force: 12/7/2002					
009	Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms			20/3/1952	18/5/1954			
	Signature: 24/4/2002	Ratification or accession: 12/7/2002	Entered into force: 12/7/2002					
010	Protocol to the General Agreement on Privileges and Immunities of the Council of Europe			6/11/1952	11/7/1956			
		Ratification or accession: 3/10/2003	Entered into force: 3/10/2003					
015	European Convention on the Equivalence of Diplomas leading to Admission to Universities			11/12/1953	20/4/1954	X	X	
		Ratification or accession: 29/12/1994	Entered into force: 29/12/1994					
018	European Cultural Convention			19/12/1954	5/5/1955	X		
		Ratification or accession: 29/12/1994	Entered into force: 29/12/1994					
021	European Convention on the Equivalence of Periods of University Study			15/12/1956	18/9/1957	X	X	
		Ratification or accession: 29/12/1994	Entered into force: 29/12/1994					
032	European Convention on the Academic Recognition of University Qualifications			14/12/1959	27/11/1961	X	X	
		Ratification or accession: 29/12/1994	Entered into force: 30/1/1995					
041	Convention on the Liability of Hotel-keepers concerning the Property of their Guests			17/12/1962	15/2/1967	X	X	
		Ratification or accession: 29/12/1994	Entered into force: 30/3/1995					
044	Protocol No. 2 to the Convention for the Protection of Human Rights and Fundamental Freedoms, conferring upon the European Court of Human Rights competence to give advisory opinions			6/5/1963	21/9/1970			
	Signature: 24/4/2002	Ratification or accession: 12/7/2002	Entered into force: 12/7/2002					
045	Protocol No. 3 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending Articles 29, 30 and 34 of the Convention			6/5/1963	21/9/1970			
	Signature: 24/4/2002	Ratification or accession: 12/7/2002	Entered into force: 12/7/2002					
046	Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and in the first Protocol thereto			16/9/1963	2/5/1968			
	Signature: 24/4/2002	Ratification or accession: 12/7/2002	Entered into force: 12/7/2002					

049	Protocol to the European Convention on the Equivalence of Diplomas leading to Admission to Universities		3/6/1964	4/7/1964	X	X		
		Ratification or accession: 29/12/1994	Entered into force: 30/1/1995					
050	Convention on the Elaboration of a European Pharmacopoeia		22/7/1964	8/5/1974	X			X
		Ratification or accession: 29/12/1994	Entered into force: 30/3/1995					
051	European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders		30/11/1964	22/8/1975	X	X		
		Ratification or accession: 29/12/1994	Entered into force: 30/3/1995					
055	Protocol No. 5 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending Articles 22 and 40 of the Convention		20/1/1966	20/12/1971				
	Signature: 24/4/2002	Ratification or accession: 12/7/2002	Entered into force: 12/7/2002					
066	European Convention on the Protection of the Archaeological Heritage		6/5/1969	20/11/1970	X	X		
		Ratification or accession: 29/12/1994	Entered into force: 30/3/1995					
069	European Agreement on continued Payment of Scholarships to students studying abroad		12/12/1969	2/10/1971	X	X		
		Ratification or accession: 29/12/1994	Entered into force: 30/1/1995					
087	European Convention for the Protection of Animals kept for Farming Purposes		10/3/1976	10/9/1978	X	X	X	
		Ratification or accession: 29/12/1994	Entered into force: 30/6/1995					
088	European Convention on the International Effects of Deprivation of the Right to Drive a Motor Vehicle		3/6/1976	28/4/1983	X	X		
		Ratification or accession: 29/12/1994	Entered into force: 30/3/1995					
090	European Convention on the Suppression of Terrorism		27/1/1977	4/8/1978				
	Signature: 17/3/2003	Ratification or accession: 3/10/2003	Entered into force: 4/1/2004					
102	European Convention for the Protection of Animals for Slaughter		10/5/1979	11/6/1982	X	X	X	
		Ratification or accession: 29/12/1994	Entered into force: 30/6/1995					
114	Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty		28/4/1983	1/3/1985				
	Signature: 24/4/2002	Ratification or accession: 12/7/2002	Entered into force: 1/8/2002					
117	Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms		22/11/1984	1/11/1988				
	Signature: 24/4/2002	Ratification or accession: 12/7/2002	Entered into force: 1/10/2002					
118	Protocol No. 8 to the Convention for the Protection of Human Rights and Fundamental Freedoms		19/3/1985	1/1/1990				
	Signature: 24/4/2002	Ratification or accession: 12/7/2002	Entered into force: 12/7/2002					
120	European Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches		19/8/1985	1/11/1985	X	X		
		Ratification or accession: 29/12/1994	Entered into force: 1/2/1995					
121	Convention for the Protection of the Architectural Heritage of Europe		3/10/1985	1/12/1987	X	X	X	
		Ratification or accession: 29/12/1994	Entered into force: 1/4/1995					
122	European Charter of Local Self-Government		15/10/1985	1/9/1988				
	Signature: 12/7/2002	Ratification or accession: 12/7/2002	Entered into force: 1/11/2002					

126	European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment		26/11/1987	1/2/1989	X	X		
	Signature: 12/7/2002	Ratification or accession: 12/7/2002	Entered into force: 1/11/2002					
134	Protocol to the Convention on the Elaboration of a European Pharmacopoeia		16/11/1989	1/11/1992	X			X
		Ratification or accession: 29/12/1994	Entered into force: 30/3/1995					
135	Anti-Doping Convention		16/11/1989	1/3/1990	X	X		
		Ratification or accession: 29/12/1994	Entered into force: 1/2/1995					
141	Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime		8/11/1990	1/9/1993	X	X		
	Signature: 30/3/2004	Ratification or accession: 30/3/2004	Entered into force: 1/7/2004					
151	Protocol No. 1 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment		4/11/1993	1/3/2002				
	Signature: 12/7/2002	Ratification or accession: 12/7/2002	Entered into force: 1/11/2002					
152	Protocol No. 2 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment		4/11/1993	1/3/2002				
	Signature: 12/7/2002	Ratification or accession: 12/7/2002	Entered into force: 1/11/2002					
155	Protocol No. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, restructuring the control machinery established thereby		11/5/1994	1/11/1998				
	Signature: 24/4/2002	Ratification or accession: 12/7/2002	Entered into force: 12/7/2002					
157	Framework Convention for the Protection of National Minorities		1/2/1995	1/2/1998	X	X		
		Ratification or accession: 24/2/2000	Entered into force: 1/6/2000					
165	Convention on the Recognition of Qualifications concerning Higher Education in the European Region		11/4/1997	1/2/1999	X	X	X	
	Signature: 17/7/2003	Ratification or accession: 9/1/2004	Entered into force: 1/3/2004					
173	Criminal Law Convention on Corruption		27/1/1999	1/7/2002	X	X	X	
	Signature: 1/3/2000	Ratification or accession: 30/1/2002	Entered into force: 1/7/2002					
174	Civil Law Convention on Corruption		4/11/1999	1/11/2003	X	X	X	
	Signature: 1/3/2000	Ratification or accession: 30/1/2002	Entered into force: 1/11/2003					
177	Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms		4/11/2000					
	Signature: 24/4/2002	Ratification or accession: 29/7/2003						
187	Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances		3/5/2002	1/7/2003				
	Signature: 3/5/2002	Ratification or accession: 29/7/2003	Entered into force: 1/11/2003					

42 treaty(ies) found

Notes: Convention(s) and Agreement(s) opened to the member States of the Council of Europe and, where appropriate, to the : E. : **European** non-member States - N. : **Non-European** non-member States - C. : European Community. See the final provisions of each treaty.

Source : Treaty Office on <http://conventions.coe.int>

Appendix 2:**Treaties signed but not ratified as of 8/6/2004**

No.	Title	Opening of the treaty	Entry into force	E.	N.	C.
024	European Convention on Extradition	13/12/1957	18/4/1960	X	X	
	Signature: 30/4/2004					
030	European Convention on Mutual Assistance in Criminal Matters	20/4/1959	12/6/1962	X	X	
	Signature: 30/4/2004					
073	European Convention on the Transfer of Proceedings in Criminal Matters	15/5/1972	30/3/1978	X	X	
	Signature: 30/4/2004					
086	Additional Protocol to the European Convention on Extradition	15/10/1975	20/8/1979	X	X	
	Signature: 30/4/2004					
098	Second Additional Protocol to the European Convention on Extradition	17/3/1978	5/6/1983	X	X	
	Signature: 30/4/2004					
106	European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities	21/5/1980	22/12/1981	X		
	Signature: 30/4/2004					
108	Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data	28/1/1981	1/10/1985	X	X	
	Signature: 2/3/2004					
112	Convention on the Transfer of Sentenced Persons	21/3/1983	1/7/1985	X	X	
	Signature: 30/4/2004					
116	European Convention on the Compensation of Victims of Violent Crimes	24/11/1983	1/2/1988	X	X	
	Signature: 30/4/2004					
132	European Convention on Transfrontier Television	5/5/1989	1/5/1993	X	X	X
	Signature: 9/12/2003					
159	Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities	9/11/1995	1/12/1998	X		
	Signature: 30/4/2004					
162	Sixth Protocol to the General Agreement on Privileges and Immunities of the Council of Europe	5/3/1996	1/11/1998			
	Signature: 3/10/2003					
163	European Social Charter (revised)	3/5/1996	1/7/1999			
	Signature: 11/5/2004					
169	Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning interterritorial co-operation	5/5/1998	1/2/2001	X		
	Signature: 30/4/2004					
180	Convention on Information and Legal Co-operation concerning "Information Society Services"	4/10/2001		X	X	X
	Signature: 4/10/2001					
181	Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows	8/11/2001	1/7/2004	X	X	X
	Signature: 2/3/2004					

188	Additional Protocol to the Anti-Doping Convention	12/9/2002	1/4/2004	X	X	
	Signature: 3/10/2003					

17 treaty(ies) found

Notes: Convention(s) and Agreement(s) opened to the member States of the Council of Europe and, where appropriate, to the : E. : **European** non-member States - N. : **Non-European** non-member States - C. : European Community. See the final provisions of each treaty.

Source : Treaty Office on <http://conventions.coe.int>