

# Information Documents

SG/Inf(2008)2

17 January 2008

---

## Bosnia and Herzegovina:

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

#### Update on developments (April – December 2007)

---

#### EXECUTIVE SUMMARY

During the last 9 months, Bosnia and Herzegovina saw, yet again, little progress in fulfilling the commitments entered into upon accession to the Council of Europe.

For most of 2007, the country's political scene was dominated by the stand-off related to protracted negotiations on police reforms. The situation, however, improved dramatically towards the end of the year, when the political leaders agreed on an action plan for police reforms, which led to the initialling of the Stabilisation and Association Agreement with the EU.

In the coming months, the BiH authorities are encouraged to use the improved political climate in the country to its full advantage in order to fulfil the remaining commitments, and in particular, to restart the constitutional reform process as quickly as possible.

BiH should better profit from its membership of the Council of Europe, using the available expertise and resources to advance the reform agenda.

#### I. INTRODUCTION

1. The purpose of this document is to update the information contained in the Thirteenth Report (June 2006–March 2007) on *Bosnia and Herzegovina - Compliance with obligations and commitments and implementation of post-accession co-operation programmes*, of 7 May 2007 (SG/Inf (2007) 3).

2. The Council of Europe Secretary General paid an official visit to Bosnia and Herzegovina from 28 to 30 October and met with the BiH authorities at State and entity levels, the international community as well as representatives of the civil society. The report is based on information at the

disposal of the Secretariat, received from the CoE Office in Sarajevo and different BiH and international partners. It is not intended as a stand-alone monitoring document. A full report will be prepared following a Secretariat mission to Bosnia and Herzegovina (BiH) in spring 2008.

3. Following the discussions on the previous monitoring report for Bosnia and Herzegovina, the Ministers' Deputies, at their 998<sup>th</sup> meeting on 13 June 2007, "*regretted the lack of progress in the fulfilment of the obligations and recalled the requirement to fulfil all commitments entered into upon accession to the Council of Europe.*"

4. *The Deputies urged the authorities of Bosnia and Herzegovina, at all levels, to implement the recommendations detailed in the 13<sup>th</sup> monitoring report, and namely to:*

- *Restart without delay the discussions on the constitutional reform, which is of crucial importance for the efficient functioning of the state structures and for the European integration of the country;*
- *Complete the reform of the police;*
- *Complete the implementation of the state-level Law on the Public Radio-Television System;*
- *Complete the transition of the Ombudsman offices and ensure that the state-level office has the necessary resources to function properly;*
- *Ratify the European Outline Convention on Transfrontier Co-operation (and its Amending Protocols), the European Charter for Regional or Minority Languages and the European Social Charter (revised);*
- *Put an end to discriminatory practices in the education system throughout the country, notably in the system of "two schools under one roof" and ensure the right to education in minority languages. Adopt the Law on Higher Education without further delay and complete the reform of higher education."*

5. Since the adoption of the last monitoring report, BiH has not advanced in meeting any of the remaining formal commitments to the Council of Europe - the ratification of the European Framework Convention on Transfrontier Co-operation (and its Amending Protocols), the European Social Charter (revised) and the European Charter for Regional or Minority Languages.

6. The country saw some progress with respect to other recommendations, such as the adoption of the Law on Higher Education or improved – but not yet full - co-operation with the International Criminal Tribunal for the former Yugoslavia.

7. Other areas, such as the recommendation to remedy the situation of "two schools under one roof", or completing the transition of ombudsman offices saw no improvement at all, even regressing in parts.

8. In the coming months, the BiH authorities are encouraged to use the improved political climate in the country to its full advantage in order to fulfil the remaining formal commitments and advance in responding to the other recommendations. BiH should better profit from its membership of the Council of Europe, using the available expertise and resources to advance the reform agenda.

## **II. POLITICAL CONTEXT**

9. For most of 2007, the country's political scene was dominated by protracted negotiations on reforming the police forces and bringing them under a unified command, which was the main outstanding requirement set out by the EU, in order to conclude the Stabilisation and Association Agreement.

10. Following the failure of yet another round of police reforms, the High Representative began imposing measures aimed at bringing BiH State institutions “closer to the functionality designed originally at Dayton and which will enable the country to move forward even in the current political climate”.

11. The decisions imposed changes to the Law on the Council of Ministers of BiH, and in particular to the rules of the quorum - a session of the Government can now be held whenever a majority of the members of the Council of Ministers are present and the Government can take certain decisions when the majority of those voting are in favour.

12. Other proposed measures amended the Rules of Procedures of the House of Representatives. A decision can now be passed in the House of Representatives with a majority of votes, including at least one-third of the votes of representatives present and voting from each Entity.

13. The imposed changes were designed to end tactics of blocking reforms by boycotting sessions, which had been used in the past by all political forces.

14. The actions of the High Representative received full support from the international community. On 31 October, HR Lajcak was backed by the Steering Board of the Peace Implementation Council, which said that the “only objective of these measures was to streamline the decision-making process in the Council of Ministers and the Parliament and that they are necessary to speed up the reform process”. During his official visit (28 – 30 November) the Secretary General gave his full support to the measures of the High Representative.

15. Politicians in the Republika Srpska (RS) perceived these measures as unfairly limiting their rights and as contrary to the Dayton Agreement. RS Prime Minister Milorad Dodik threatened to withdraw all Serbs from State institutions in protest, effectively blocking their functioning and BiH Prime Minister Nikola Spiric resigned on 1 November, but continued to act in a caretaking capacity.

16. In the space of several days, however, the situation changed dramatically. On 30 November, one day short of the deadline, the BiH Parliament eventually agreed to modify its Rule of Procedures in accordance with the recommendation of the High Representative and adopted the new voting rules of the House of Representatives.

17. On 3 December, the government adopted an action plan for police reforms, deemed sufficient by the EU, which agreed to initial the Stabilisation and Association Agreement on 4 December.

18. Meeting in Laktasi (near Banja Luka) on 11 December, the leaders of major political parties agreed on the creation of a task force to draft the necessary legislation for police reforms. The proposed legislative package will establish a number of structures, such as a Directorate for State-level police forces, a forensic institute, a training and education institute and a police support agency. The next meeting of the party leaders is scheduled to take place in January 2008.

19. Prime Minister Spiric was reappointed to his post at the end of December. He is expected to propose a cabinet by the end of January.

### **III. DEMOCRATIC INSTITUTIONS**

#### **1. Constitutional reform**

20. Following the agreement reached on police reform, there is an improvement in the political atmosphere in the country which improves the prospects of resuming discussions on the constitutional reform.

21. The BiH authorities should be encouraged to use the window of opportunity of a vastly improved political climate in the country to restart the constitutional reform as quickly as possible. The Council of Europe, through its Venice Commission, stands ready to assist in the process, but BiH needs to have ownership over the amendments and the constitution.

22. Lessons from the previously-rejected constitutional package in 2006 must be taken into account. Constitutional discussions should be transparent and inclusive, with broad-based public consultations. The State Parliament should lead the discussions and should assume the full ownership over the draft of the text. Large and meaningful consultations of the civil society reduce the risk of political leaders withdrawing their support to the amendments at the finishing line.

#### **2. Elections of the President of the Republika Srpska**

23. On 9 December, early elections were called in the Republika Srpska, after President Milan Jelic died of a heart attack on 30 September. According to the BiH Constitution, the RS President is elected after one round of voting with a simple majority of votes.

24. There were ten candidates for the post. Mr Rajko Kuzmanovic, the candidate of the Union of Independent Social Democrats (party of the current RS Prime Minister Milorad Dodik), won the elections with 41.8% of the votes. The candidate of the Serb Democratic Party (SDS), Mr Ognjen Tadic, came second with 35.2%, while Mr Mladen Ivanic (Party of Democratic Progress) was third with 17.1%. The turnout was exceptionally low - only 37% of RS voters came to the polls - the worst turnout since 1995.

25. Mr Kuzmanovic was sworn into office on 28 December 2007, thus becoming the 7th President of the RS. The RS President has a largely symbolic role.

26. The elections were observed by a delegation of the Congress of Local and Regional Authorities of the Council of Europe. The Congress, in its press release, noted the low turnout and that early on Election Day some voters had difficulties locating their voting station, but measures were quickly put into place to address this issue.

27. The Congress assessed that the elections were generally in accordance with Council of Europe and international standards.

#### **3. Role of the international community**

28. The new High Representative, Miroslav Lajcak, took up office on 2 July 2007, acting at the same time as the EU's Special Representative.

29. Immediately after taking up office, the High Representative started to play an increasingly important role in mediating on police and constitutional reforms and facilitating the implementation of reforms in other areas, as well as making regular high-level and high-profile public interventions.

30. In July 2007, the High Representative suspended 35 persons from their posts in the Republika Srpska police and ordered the seizure of the IDs and travel documents of 93 persons investigated for war crimes.

31. A review of the situation, with respect to the mandate of the Office of the High Representative in Bosnia and Herzegovina (OHR) and its closure date, will be made at the next meeting of the Peace Implementation Council, at the level of Political Directors, on 26 - 27 February 2008 in Brussels.

32. On 21 November, the U.N. Security Council extended for a year the European Union's peacekeeping force (EUFOR) in BiH, citing the country's "very limited progress" towards EU membership and its failure to implement key reforms. The resolution was unanimously adopted by the Security Council on the day when the country commemorated the 12th anniversary of the signing of the Dayton Agreement.

33. In its resolution, the Security Council welcomed the EU's intention to maintain the military operation and authorised the EU's 2,500 peacekeepers to stay for a further 12 months. The Security Council also reminded BiH of the commitment to co-operate with the International Criminal Tribunal for the former Yugoslavia by handing over all those indicted for war crimes.

34. In a parallel move, in December 2007 the EU extended for two more years the mandate of the European Union Police Mission (EUPM), following a request of the BiH Presidency.

#### **4. European integration**

35. On 4 December, the EU initialled the Stabilisation and Association Agreement (SAA) with Bosnia and Herzegovina, the first in a long series of steps towards EU membership. With the decision to initial the agreement, the EU has accepted that the country has a new political dynamic, which allows for a more constructive atmosphere and a speedier implementation of reforms.

36. Slovenia declared, as a priority of their EU Presidency, to have the SAA signed during the first half of 2008. In order to achieve this objective, however, BiH will need to show concrete progress in a number of areas such as police restructuring, public broadcasting service and public administration reforms.

### **IV. HUMAN RIGHTS**

#### **1. European Convention on Human Rights**

37. The BiH Constitution continues to be in violation of Protocol No. 12 of the European Convention on Human Rights: its provisions on ethnic representation for the BiH Presidency, the President and two vice-presidents of the two entities, the BiH House of Peoples and other senior posts, breach the provision that elections for official posts must ensure equal treatment for all citizens, allowing all citizens to stand for election.

38. To present, the European Court of Human Rights has admitted three cases brought by citizens of BiH against this type of ethnic discrimination<sup>1</sup>.

39. On 16 October 2007, the ECtHR ruled as inadmissible a number of applications lodged against the decision of the High Representative to remove the applicants from public office and to bar them from running for elections. In its decision<sup>2</sup>, the Court observed that the High Representative was exercising lawfully delegated powers of the United Nations Security Council “so that the impugned action was, in principle, attributable to the UN”, which has authorised the establishment of an international administrator for Bosnia and Herzegovina, as an enforcement measure under Chapter VII of the UN Charter.

## **2. European Committee for the Prevention of Torture**

40. BiH has not yet sent to the Council of Europe three suitable candidates to represent the country on the Anti-Torture Committee (CPT).

41. Following its second periodic visit to Bosnia and Herzegovina in March 2007, the CPT published its preliminary observations<sup>3</sup> of the visit and the response of the authorities. One of the major concerns of the CPT was the fact that the situation as regards forensic psychiatric patients has not been improved and that the conditions in Zenica Prison forensic psychiatric annexe have continued to deteriorate.

42. The CPT delegation noted that there seemed to be agreement, across all levels of government in Bosnia and Herzegovina, that the existing forensic psychiatric facilities needed to be replaced with a single State-level facility for the entire country. However, despite this general agreement, the preliminary report noted that there were no tangible progress and no realistic time-table to establish this facility and that the whole process lacked a strategic planning approach.

## **3. European Social Charter**

43. BiH has not ratified the European Social Charter (revised)<sup>4</sup>. During the visit of the Secretariat delegation to BiH in March 2007, several State-level interlocutors assured the Secretariat of the imminent ratification of the Revised Charter in the first half of 2007.

44. On 10 May 2007, the Government presented an instrument of ratification, which, however, did not respect the required minimum number of obligations to be assumed by the Contracting States and therefore it was not accepted. The authorities are preparing a revised instrument of ratification, expecting to re-submit it to the Council of Europe in the first half of 2008.

---

<sup>1</sup> Cases brought by Mr Dervo Sejdic, a representative of the Roma community in BiH, Mr Jakob Finci, a representative of the Jewish community and Mr Ilijaz Pilav, a Bosniak in Republika Srpska, whose candidacy for the BiH Presidency was rejected on the grounds that only Bosniaks from the Federation could stand for this position.

<sup>2</sup> The Fourth Section Decision as to the admissibility of applications by Mr Dušan BERIĆ and Others against Bosnia and Herzegovina lodged between 21 September 2004 and 4 June 2005.

<sup>3</sup> <http://cmiskp.echr.coe.int/tkp197/viewhbk.asp?action=open&table=F69A27FD8FB86142BF01C1166DEA398649&key=65925&sessionId=4505646&skin=hudoc-en&attachment=true>

<sup>3</sup> The preliminary observations and the response of authorities of Bosnia and Herzegovina can be found on the CPT's website <http://www.cpt.coe.int/documents/bih/2007-34-inf-eng.htm>. The issues outlined in the preliminary observations were further elaborated in the full visit report, forwarded to BiH authorities, confidential at the time of writing of the update.

<sup>4</sup> The Social Charter was signed by BiH on 11 May 2004.

#### **4. Protection of national minorities**

45. BiH has not ratified the European Charter for Regional or Minority Languages<sup>5</sup>, one of the outstanding commitments undertaken upon accession to the Council of Europe. Despite reassurance to the contrary, during the last year the country undertook no activity to advance with the ratification. The Secretariat stands ready to assist the authorities of BiH to ratify the Charter. The fact that a population census has not been held since 1991 leads to a lack of reliable recent data on the number of speakers of the minority languages and contributes to delaying the ratification of the Charter.

46. If a census is to be held in BiH in time for the 2010 world-wide round of censuses, it is essential that preparations for it start as soon as possible. There are some encouraging signs, suggesting that different authorities of the country have started preliminary preparations for the exercise. As was stated in previous monitoring reports, the Council of Europe stands ready to provide expert assistance in this process.

47. In August 2007, BiH submitted to the Council of Europe the second State report on protection of national minorities, thus fulfilling its contractual obligations as a Contracting Party to the Framework Convention for the Protection of National Minorities. The next cycle of monitoring will start in spring 2008.

48. Due to the existing BiH Constitution, minorities continue to be excluded from the State and entity Presidencies, the House of Peoples and other senior-elected positions.

49. The advisory Councils of National Minorities have been established at the State and RS levels. The State level Council is not yet operational. The Federation Parliament has yet to establish its own National Minority Council.

#### **5. Roma community**

50. Social exclusion and poverty of the Roma community, combined with a low school enrolment rate of Roma children, and often no legal status, continues to remain an issue of major concern for Bosnia and Herzegovina. A number of Roma do not benefit from basic health and retirement provisions and discrimination against this community persists.

51. The social initiatives taken by the authorities, however laudable, fail to reduce the social gap of the Roma community.

52. Some local authorities have taken the lead in addressing locally the situation of Roma, providing Roma children with textbooks and financial assistance. The municipalities of Banja Luka and Vitez have been awarded the “Dosta! – Congress prize for municipalities”<sup>6</sup>, for their efforts in improving the living conditions and social inclusion of the Roma.

---

<sup>5</sup> BiH signed the European Charter for Regional or Minority Languages in September 2005.

<sup>6</sup> A prize launched by the Dosta! Campaign and the Council of Europe Congress of Local and Regional Authorities, distinguishing the municipalities engaged in the promotion of Roma participation or in the fight against discrimination.

## **6. Restructuring of the Ombudsman institutions**

53. In April 2006, BiH adopted the law which allowed, in theory, a merger of all existing Ombudsmen institutions into a single structure, as from 1 January 2007. However, until now the handover of responsibilities to the State Ombudsman Office has not taken place. Meanwhile, in September, the Parliament rejected the appointment of the Bosniak and Serb candidates for Ombudsmen, which means that the recruitment for all three BiH Ombudsmen had to be re-launched from scratch, delaying yet again the implementation of the State Ombudsmen Law.

54. BiH needs a professional and unified Office of State Ombudsmen, whose selection is based on their professional qualifications rather than their political backing.

## **7. War crimes and co-operation with the International Criminal Tribunal for the former Yugoslavia**

55. The level of co-operation of the authorities with the International Criminal Tribunal for the former Yugoslavia (ICTY) has progressed and is generally assessed as satisfactory. According to the report of the ICTY prosecutor, “there are clear indications of progress made at the State and entity levels to improve co-ordination in targeted actions against the fugitives’ support network”<sup>7</sup>.

56. The co-operation of the Federation of Bosnia and Herzegovina has continued to be good. Co-operation of the Republika Srpska with the ICTY has improved, in particular at the operational level, facilitating prosecutions and transferring information. The police of Republika Srpska contributed to the arrest of Zdravko Tolimir<sup>8</sup> and to his transfer to The Hague.

57. No progress has been made in locating Radovan Karadzic and Ratko Mladic.

## **8. War Crimes Chamber**

58. The War Crimes Chamber<sup>9</sup> was envisioned as part of the ICTY's wish to conclude its mandate by 2010 and to transfer all responsibility for handling of war crime cases to the appropriate national governments within the states of the former Yugoslavia. The Court of BiH's War Crimes Chamber was lauded as the first national court in the former Yugoslavia capable of addressing war crimes.

59. The War Crimes Chamber has made good progress in trying cases transferred from the ICTY, as well as war crime cases initiated by national prosecutors. Of the cases referred by the ICTY, the Special War Crimes Chamber of BiH has completed two trials, three trials are on-going and one case is at the pre-trial stage.

60. The ICTY has continued with the practice of handing over investigative materials to the national prosecutors, for cases in which the Tribunal issued no indictment. To date, four investigation files

---

<sup>7</sup> Assessment report of Carla Del Ponte, Prosecutor of the International Criminal Tribunal for the former Yugoslavia provided to the UN Security Council, 12 November 2007.

<sup>8</sup> Former RS senior army officer, indicted by the ICTY for his alleged role in the Srebrenica massacre, arrested by the RS police on 31 May 2007, as a result of intensive co-operation with the Serbian authorities, and transferred the next day to the ICTY.

<sup>9</sup> In January 2003, the Office of the High Representative in Bosnia and Herzegovina (OHR) and the International Criminal Tribunal for the former Yugoslavia issued a set of joint conclusions recommending the creation of a War Crimes Chamber, consisting of a specialised chamber for war crimes within the Court of BiH and a corresponding special department for war crimes within the Prosecutor's Office of BiH. In January 2005, these departments, composed of international and national judges and prosecutors, were established.

have been transferred to BiH, with the aim of transferring further files involving a total of 32 persons by the end of 2008<sup>10</sup>.

61. The War Crimes Chamber of BiH is only dealing with the most sensitive cases, delegating the other ones to the lower courts. Most of the war crime cases will be tried not by the War Crimes Chamber but by the lower courts – entity and municipal ones - which are understaffed and have insufficient resources. In the coming year, it is imperative that these jurisdictions are given support to develop their judicial capacity, so as to ensure that all referred cases are conducted in full compliance with the standards of due process. The country's reconciliation process may depend on it.

## **9. Sustainable return of refugees and displaced persons**

62. The UN Refugee Agency estimates that by the end of September 2007, 450,000 former refugees and 577,000 internally displaced persons (IDPs) exercised their right to return, out of an estimated 2.2 million persons who were forcibly displaced during the war. According to a survey of the Ministry of Human Rights and Refugees, following a re-registration of IDPs, there are still over 135,000 displaced persons wishing to return to their pre-war places of residence.

63. The rate of returns has decreased dramatically in the last years. Moreover, there are indications that many returnees do not reside in their place of return and that the trend is to remain in areas where their ethnic group is a majority.

64. In an encouraging development, the Ministry of Human Rights and Refugees started, in September, the review of the return strategy for the implementation of the Agreement on Refugees and Displaced Persons (Annex 7 of the Dayton Agreement), with the aim of focusing on sustaining the return process.

65. The Council of Europe will continue to closely monitor this process, since the return of IDPs remains a major political issue and durable progress with the implementation of Annex 7 is directly linked with the reconciliation process in the country.

## **V. RULE OF LAW**

### **1. Reform of the judiciary**

66. There is unanimous recognition that the justice sector of BiH requires improvement. The judiciary in BiH continues to suffer from the lack of harmonisation between the different jurisdictions and it requires a comprehensive reform of the various judicial and legal systems, both in the entities and at the state level. BiH needs to unify the jurisprudence throughout the country and to apply its criminal legislation more uniformly.

67. Currently, the Court of BiH conducts both phases of the judicial process, having both the first instance and the appellate division. A Supreme Court at the State level should be established, but this would require constitutional amendments. In the meantime, it is important to reinforce the Appellate Division of the BiH Court, physically separating it from the first instance court.

---

<sup>10</sup> Assessment and report of Carla Del Ponte, Prosecutor of the ICTY provided to the UN Security Council, 12 November 2007.

68. International presence in the BiH Judiciary (BiH Court, BiH Prosecutor's Office, High Judiciary and Prosecutorial Council) is still significant. The International Community has contributed towards employment of investigators who deal with sensitive cases, such as investigators in the BiH Prosecutor's Office, dealing with Srebrenica crimes. Under current arrangements of the Transitional Agreement, no international presence should remain in Bosnia and Herzegovina's Judiciary by the end of 2009, thus the need for a phase-out strategy.

69. On 1 October 2007, the Ministry of Justice made public a draft strategy of the justice sector reforms, which should have been finalised by the end of 2007. The strategy leaves a number of questions unanswered, such as how to cope with the potentially vast case-load of war crimes. There are an estimated 13,000 potential war crime suspects still untried and under the current system it is impossible to deal with the remaining load of war crime cases. Considering the number of potential suspects, it will take decades to complete the entire process. Some sort of case classification will have to be carried out beforehand. Additional resources will have to be allocated to increase the capacity of judicial staff and institutions.

70. Currently, 14 Ministries of Justice and Ministries of Finance have to be involved in the budget process. Pending constitutional reforms (and creation of a single unified budget on judiciary), the CoE supports the amalgamation of judiciary budgets from 14 to 4 – merging the 10 cantonal budgets for judiciary into one federation budget.

71. The Council of Europe is ready to assist the authorities, both with the development and the implementation of judiciary reforms and the strategy for war crimes.

## **2. Fight against corruption and organised crime**

72. During the period under review, no major improvements can be reported in this respect. BiH has to show that it is ready to sustain anti-corruption efforts in the long run.

73. In November 2007, the High Representative decided to re-activate within his office the anti-corruption unit, whose role has yet to be defined, but the High Representative made it clear that the Unit will not investigate or prosecute individual cases. According to HR Lajcak the "team will cooperate closely with local and international institutions to analyse the nature and strength of links between crime, terrorism, war crime suspect networks and the potential involvement of high-ranking individuals in Dayton obstruction or in obstructing the legitimate functioning of BiH institutions".

## **3. Penitentiary system**

74. The escape of Radovan Stankovic<sup>11</sup> from the Foca prison, on 25 May 2007, highlighted in a dramatic way the deficiencies of the current detention system in BiH, the need for improved co-ordination between the country's law-enforcement and judicial agencies and the need for a high-security State prison.

75. The international community and the BiH government have been discussing the State prison project for several years now and the Government is currently negotiating with the Council of Europe Development Bank, to obtain a 5 million euro loan, to build the State prison facilities.

---

<sup>11</sup> The first war criminal to be convicted by the War Crimes Chamber of BiH to a 20-year sentence for crimes against humanity.

However, pending the State prison being in place, short-term practical solutions to current deficiencies have to be found.

## **VI. EDUCATION**

76. Since the publication of the last report, the adoption of three education-related laws is an encouraging development which contributes to bringing BiH closer to European standards. However, beyond the legislative framework, elimination of segregation and ethnicity-based discrimination in education remains a pending issue. Upon its accession to the Council of Europe, BiH undertook “to maintain and continue reform in the field of education and to eliminate all aspects of segregation and discrimination based upon ethnic origins”, an obligation as yet unfulfilled.

### **1. Primary and secondary education**

77. The Law on an Agency for Pre-School, Primary and Secondary Education and the Law on Pre-School Education in BiH were adopted on 29 October 2007. The Law on Vocational Training remains under parliamentary procedure.

78. With regard to the issue of “two schools under one roof”, there are clear indications that the situation is getting worse and segregation by ethnic criteria in BiH schools has become a norm rather than an exception in the Federation of Bosnia and Herzegovina, the current general trend being separate schools for different ethnic groups. Each ethnic group has its own curriculum for most of subjects, which does not encourage inter-ethnic understanding and tolerance.

79. The authorities should consider introducing a new core educational curriculum, for the whole of BiH, complemented by a set of culturally specific subjects.

### **2. Higher education**

80. After four years of legal and political wrangling over its contents<sup>12</sup>, the Framework Law on Higher Education was finally adopted on 30 July 2007, allowing BiH to join the European Higher Education Area. The law stipulates the creation of a State-level agency which will set universal academic standards for higher education institutions, while authorities at the cantonal and entity levels will continue to be in charge of the licensing and financing of universities.

81. The Higher Education Law was both a commitment to the Council of Europe and necessary to support the implementation of the Bologna process. Adopting the law, and thus formally fulfilling this commitment, was a welcoming and long-due compromise; however it is a first step which opens the way to institutional reforms in education. BiH authorities need to ensure that the law is swiftly implemented and the necessary package of regulations (related to diplomas, quality of education, recognition of qualifications, etc), needed for its implementation, is quickly adopted.

82. The CoE is assisting in this process through its joint EC/CoE project “Strengthening Higher Education in BiH”, including in the development of key guidelines and regulations to implement the law.

---

<sup>12</sup> BiH joined the Bologna Process at the Ministerial Conference in Berlin in September 2003 and the draft Framework Law on Higher Education was completed and introduced into parliamentary procedure in December 2003.

## VII. REGIONAL CO-OPERATION AND RELATIONS WITH THE NEIGHBOURING COUNTRIES

83. After months of intensive negotiations, BiH ratified the Central European Free Trade Agreement (CEFTA) Treaty in September 2007, which enabled the BiH Minister of Foreign Trade to attend the CEFTA signatories' meeting on 28 September in Ohrid.

84. In May 2007, Sarajevo was chosen unanimously as the Seat of the Secretariat of the Regional Co-operation Council (RCC). The RCC is taking over the tasks of the Stability Pact for South-Eastern Europe, in facilitating regional co-operation and supporting the European integration efforts of the region. The inaugural conference of the RCC will take place in Sofia on 27 February 2008. The Council of Europe intends to co-operate closely with the RCC and the Special Representative of the Secretary General in Sarajevo will serve as a liaison person of the CoE with the RCC Secretariat.

### Regional co-operation on war crimes

85. Further work remains to be done to facilitate co-operation between States of the region in the investigation and prosecution of alleged war criminals.

86. Extradition of war crime suspects between the countries of the region is another issue – some of them are out of the country, having dual citizenship (in particular Serbian and Croatian in addition to the BiH). Current laws in those countries do not foresee the possibility of extradition of own nationals in case of indictment. Serbia, Montenegro and Croatia signed an agreement establishing that the indictees are to be tried in the country in which they are arrested. Up to now, due to the sensitivity of war crime cases<sup>13</sup>, no such agreements have been signed with BiH and all States concerned could be encouraged to do so.

87. The failure to resolve the issue of non-extradition of nationals and the question of transferring proceedings between the States involved is of particular concern, since alleged war criminals use it to evade justice. It is unlikely that such an agreement can be signed any time soon with Serbia or Croatia, but a practical exchange of evidence can be implemented.

\* \* \*

88. The report shows that, in the last 9 months, very little progress has been achieved by BiH in fulfilling the recommendations contained in the CM decisions of 13 June 2007, adopted at the 998<sup>th</sup> Ministers' Deputies meeting. In the light of the above, the Secretariat recommends that the BiH authorities be urged to implement, as soon as possible, the outstanding recommendations contained in that decision.

---

<sup>13</sup> Some Bosniak politicians argue that if war crime trials are held outside BiH, the country will find itself trying only Bosniak indictees, while trials for crimes committed against Bosniaks will take place almost exclusively abroad. In addition, they maintain that holding trials outside BiH would make it more difficult for witnesses to testify.