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## Bosnia: Civil Implementation of the Peace Agreement

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## Summary

The long and brutal war in Bosnia came to an end in December 1995 with the signing of the Dayton peace agreement. The agreement paved the way for the deployment of a 55,000-strong NATO Implementation Force (IFOR) in Bosnia for one year. While IFOR's military tasks focused on keeping the peace and providing for a secure environment, the implementation of many other civil tasks, coupled with an inflow of humanitarian and reconstruction aid, was seen as essential to building a lasting peace in Bosnia. NATO deployed a smaller Stabilization Force (SFOR) in December 1996 in order to continue to provide a stable and secure environment for ongoing civil peace efforts. SFOR's mandate will expire in June 1998. NATO is expected to approve a successor force to SFOR by March 1998, following President Clinton's announcement in December 1997 that U.S. will participate in a post-SFOR military presence in Bosnia. President Clinton stated that the mission of the new force should be tied to specific benchmarks in the peace implementation process.

Since Dayton, the civilian side of peace implementation has been challenged by the scope of the tasks, and by the lack of commitment demonstrated by the Bosnian parties to various aspects of the peace agreement. IFOR and SFOR have focused primarily on the military tasks of the peace agreements, but have also lent selected assistance to civilian agencies. Many international organizations have been involved with assisting with other aspects of the peace agreement. Many countries and financial and development institutions have provided reconstruction assistance.

Two years of peace implementation have produced many positive results. IFOR and SFOR have successfully carried out their missions. Agreements on confidence-building measures and arms control were concluded and implemented. National and local elections were conducted peacefully and joint political institutions were created. Economic indicators have improved, especially in the Federation. On the negative side, ethnic divisions between the three Bosnian communities have not been overcome. All parties have resisted the resettlement of displaced persons and refugees and freedom of movement across entity lines. Numerous human rights violations persist. Nationalist parties won dominant shares in the elections and some politicians have continued to advocate ethnic separation. Over fifty indicted war criminals have remained at large, most notably the former Bosnian Serb leaders Radovan Karadzic and General Ratko Mladic.

The international community and the Bosnian authorities have identified numerous priority areas, such as: building functioning governmental structures, furthering democratization and the protection of human rights, reforming the police, encouraging economic growth, and fostering the return of refugees. The obligation to turn over indicted war criminals remains a key priority. Overall, many international policymakers have determined that the progress made in Bosnia after two years is still not irreversible, and not at a point where peace in Bosnia is self-sustaining. This premise forms the basic justification for some form of continued international military force to remain in Bosnia in order to provide a secure environment for continued peace consolidation efforts.

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# Bosnia: Civil Implementation of the Peace Agreement

## **Introduction<sup>1</sup>**

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<sup>1</sup>Prepared by (name redacted), Specialist in International Relations.

The Dayton peace agreement signed in Paris on December 14, 1995, brought an end to the long and brutal war in Bosnia and Herzegovina.<sup>2</sup> Agreement was reached on a substantial package of documents that comprised a general framework agreement and 11 annexes. The agreement paved the way for the deployment of a NATO Implementation Force (IFOR) of about 55,000 multinational troops in Bosnia under a one-year mandate. IFOR's mission was limited to military tasks, such as enforcing the cease-fire and a zone of separation between forces, outlined in Annex 1A of the peace agreement. IFOR was to provide a secure environment to allow peace to take hold in Bosnia, but its deployment was not intended to serve as an end in itself. Rather, implementation of the vast array of civil tasks outlined in the peace agreement, coupled with an inflow of reconstruction aid to redress the physical consequences of four years of war, were regarded as essential to securing long-term peace in the Balkans. Less than satisfactory progress in civil implementation by the end of 1996 provided the justification for a follow-on NATO Stabilization Force (SFOR), smaller in size than IFOR and under an eighteen-month mandate, to continue to provide a secure environment in Bosnia.<sup>3</sup> A similar justification is expected to be invoked for a successor force for SFOR after June 1998. NATO will be deciding among various options for a successor force in early 1998.<sup>4</sup>

Since Dayton, implementation of the civilian aspects of the peace agreement has been challenging for several reasons. First, the sheer size and scope of the many important tasks to be implemented was daunting. The tasks included negotiating arms stabilization and confidence-building measures, managing the return of displaced persons and refugees, holding free elections, establishing new governmental institutions, and securing observance of human rights, among others. Meanwhile, NATO troops have contributed to a secure environment for these tasks to progress, but have not been directly responsible for their implementation. Although NATO has been adverse to any broadening of its mission, it has acknowledged that military and civilian implementation plans must complement each other. Both IFOR and SFOR have lent selective support to civilian agencies.

Second, full implementation of the civilian tasks was always expected to take longer than any particular deadline set for both IFOR and SFOR. While the peace agreement set some ambitious deadlines on certain civilian tasks, a complete restoration of civil conditions and the construction of durable governing structures could only begin during the first two years after Dayton. In November and December 1996, the international community endorsed a civilian consolidation program in Bosnia for the next two year period. U.S. policymakers have emphasized that the mandate for any military force that succeeds SFOR after June 1998 will not be tied to a set deadline, as IFOR and SFOR were. Rather, it is to be linked with established benchmarks that would measure progress in establishing a self-sustaining peace. The

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<sup>2</sup>The state is referred to as "Bosnia and Herzegovina" in the peace agreement.

<sup>3</sup>For further information on SFOR, see U.S. Library of Congress. Congressional Research Service. Bosnia Stabilization Force (SFOR) and U.S. Policy, by Steven Bowman, (name redacted), and (name redacted). CRS Report 97-475F. April 17, 1997.

<sup>4</sup>See U.S. Library of Congress. Congressional Research Service. Bosnia Options After June 1998: Summary of a CRS/GAO Seminar, by (name redacted). CRS Report 98-23F. December 23, 1997.

exact date by which the entire peace process can be declared complete cannot be determined.

The international apparatus that was constructed to oversee civil implementation presented another challenge. Unlike IFOR and SFOR, the civilian side of implementation enjoys no unified “command and control” apparatus. Dozens of countries and numerous international organizations and agencies are involved with civil implementation. Their efforts are linked by an ad hoc coordinating structure, the Peace Implementation Council, and its steering group, which provide political guidance for continued progress in the peace process. The High Representative (formerly Carl Bildt and now Carlos Westendorp) coordinates the activities of the international organizations and agencies.

Moreover, while international organizations have consistently assisted with many civil tasks, primary responsibility for implementation and compliance has rested with the Balkan parties. This fact has been repeatedly invoked by international officials. Top U.S. and other officials have led numerous missions to the region to repeat their insistence to the Bosnian parties on full compliance with various terms of the peace agreement. Numerous implementation conferences have produced statements recommitting the Balkan parties to implementation of the peace agreement. In general, however, constructive and consistent political will on the part of the Bosnian parties to implement all aspects of the peace agreement has been lacking, reflecting the staying power of the parties’ different strategic objectives. The Bosnian Serbs in particular have blocked most minority refugee returns to the Republika Srpska, and have refused to turn in indicted war criminals to the war crimes tribunal. Most observers believe that the continued presence and influence of war criminals severely undermines peace consolidation and reconciliation prospects.<sup>5</sup>

The international community has very few “enforcement” mechanisms at its disposal to encourage or compel compliance with the peace agreement outside of NATO’s mandate on military matters. The lifting of economic sanctions in October 1996 removed a major lever of influence on the Bosnian Serbs and Serbia-Montenegro. At the December 1996 London conference, the international community, in an attempt to wield greater influence on the Balkan parties, conditioned international reconstruction assistance on demonstrations by the Bosnian authorities of compliance with and commitments to the peace agreement. Economic conditionality was further emphasized at the May 1997 meeting in Sintra, Portugal. At the December 1997 Bonn conference, the powers of the High Representative were enhanced to enable him to impose binding solutions on the Bosnian parties in order to break through ongoing stalemates.

Alongside the implementation of civilian tasks, economic recovery and development are viewed as essential to chances for lasting peace in Bosnia and

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<sup>5</sup>For detailed information on the war crimes tribunal and status of war criminals, see U.S. Library of Congress. Congressional Research Service. Bosnia War Crimes: the International Criminal Tribunal for the former Yugoslavia and U.S. Policy, by (name redacted), Raphael Perl, and (name redacted). CRS Report 96-404F. Updated October 31, 1997.

Herzegovina. Reconstruction aid provided by the international community plays a critical role in securing and implementing the overall peace. Pledging and disbursing reconstruction funds has been slow, however. A major donors' conference was held on April 12-13, 1996, in Brussels. The conference met 1996 goals for the Priority Reconstruction Program that outlined over \$5 billion in emergency reconstruction needs over the next three-four years. A pledging conference for 1997 was repeatedly postponed because of delays in getting essential economic legislation passed by the Bosnian government. The donors' conference was finally held on July 23-24, 1997. \$1.24 billion was raised in pledges, of which \$1.1 billion was committed to the Priority Reconstruction Program. The conference emphasized political conditionality to the disbursement of reconstruction aid.

This report provides a status report on the international framework for peace implementation and on selected civil aspects of the peace agreement: the formation of governmental institutions, arms control and confidence-building measures, elections and election results, civil police, refugees and displaced persons, and human rights.<sup>6</sup>

## **International Framework<sup>7</sup>**

In contrast to the NATO peace forces in Bosnia, the international effort to assist with civilian tasks had no prior preparation or organizational resources. Rather, it has been managed by an ad hoc institutional structure spanning dozens of countries and international organizations. International leaders have repeatedly emphasized that progress in implementation largely rests with the Bosnian parties themselves, but with the assistance of the international community.

The peace agreement established the post of High Representative (Annex 10) to facilitate the efforts of the parties and to mobilize and coordinate activities of international organizations involved in implementing civilian aspects of the peace agreement. The High Representative is considered to be the final authority regarding interpretation of the agreement on civilian implementation. He has no command authority over NATO forces. Appointed in December 1995, Carl Bildt of Sweden served as High Representative until June 1997. As the Bosnia peace process slowly progressed, Bildt acknowledged that the trend toward ethnic separation persisted, but urged that international attention and commitment to the Dayton goals continue beyond arbitrarily-set deadlines. He predicted that the overall peace process may take "years, if not decades or generations," and called for a strategic concept to remove both the military option and the secession option from the still-distrustful Bosnian parties.<sup>8</sup> Bildt was replaced as High Representative by Carlos Westendorp, of Spain, on June 20, 1997. Jacques Klein of the United States, formerly U.N. Administrator in Eastern Slavonia, and Gerd Wagner of Germany were later appointed co-deputies to the High Representative. Hanns Schumacher of Germany

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<sup>6</sup>See relevant cited CRS Reports for more detailed information on the subjects of war crimes, SFOR, and reconstruction assistance.

<sup>7</sup>Prepared by (name redacted).

<sup>8</sup>Remarks to the National Press Club, Washington, D.C., May 1, 1997.

replaced Wagner after his untimely death, with eleven other passengers, in a helicopter crash on September 17, 1997.

At regular intervals, the international community has convened ministerial meetings and summits to review and guide the Bosnia peace process. In addition to such large-scale conferences, the United States and other countries have held impromptu summit meetings with the Balkan presidents to press for progress in peace implementation and compliance with various commitments. These “implementation summits” have intended to focus attention on particular current problems relating to the peace process. Some of the conferences and meetings have established various deadlines for compliance in specific areas of civil implementation. Beginning in December 1997, the High Representative can impose binding arbitration on the parties when they fail to meet deadlines established by the international community or the Office of the High Representative.

### **London Peace Implementation Conference, December 1995**

Following conclusion of the peace agreement at Dayton, on November 21, 1995, representatives of over fifty countries and international organizations met at a Peace Implementation Conference in London, on December 8-9, 1995. The conference was meant to mobilize the international community behind the goal of a durable peace in Bosnia and Herzegovina and in support of the peace agreement. Conference participants reached agreement on a number of conclusions. The London conference approved the appointment of Carl Bildt, the European Union mediator for the former Yugoslavia, as High Representative.

The London conference set forth new structures to manage civil peace implementation. A Peace Implementation Council (PIC) composed of all of the states and organizations represented at the London conference was established, taking the place of the International Conference on the former Yugoslavia, which had been jointly sponsored by the United Nations and the European Union. A Steering Board of the PIC was established. The board’s members — representatives from Canada, France, Germany, Italy, Japan, the Russian Federation, the United Kingdom, the United States, the European Union, the European Commission, and the Organization of the Islamic Conference — have provided political guidance to the High Representative on peace implementation, convening about once a month. The international “contact group” (France, Germany, Russia, the United Kingdom, and the United States) on the former Yugoslavia, which led international diplomatic efforts on Bosnia in 1994-1995, also continues to meet on Bosnia peace implementation.

Other major international conferences launched in December 1995 were the Brussels conference on short-term financial assistance (December 20-21) and the Budapest ministerial meeting of the Organization for Security and Cooperation in Europe (OSCE, December 7-8). In Brussels, donor countries pledged over \$600 million for immediate humanitarian and refugee assistance needs; this meeting was followed up in April 1996 by a major pledging conference among donor countries that raised \$1.2 billion for the rest of 1996. At the Budapest OSCE meeting, OSCE members accepted the various mandates requested of the organization in the peace agreement. They established an OSCE mission to Bosnia and Herzegovina



responsible for implementing OSCE tasks such as arms control and confidence-building negotiations, elections, and human rights. Robert Frowick of the United States was named head of the OSCE mission. In December 1996, OSCE extended its mandate in Bosnia for a second year. Frowick to be replaced in January 1998 as head of the OSCE mission in Bosnia.

### **Florence Mid-term Review Conference, June 1996**

Foreign ministers from over 40 countries comprising the Peace Implementation Council (PIC) met in Florence on June 13-14, 1996. The meeting was intended to review progress after six months in meeting the terms of the Bosnia peace agreement. Much of the focus of the conference was on prospects for holding elections on schedule and on the problem posed by the continued leadership of indicted war criminal Radovan Karadzic. Antonio Cassese, president of the war crimes tribunal at the Hague, called for the arrest and extradition of indicted war criminals as a precondition for elections. Cassese repeated his recommendation that economic sanctions be applied to enforce compliance with the tribunal.

The Florence conference concluded that cooperation with the war crimes tribunal, a requirement under the peace agreement, remained substantially unfulfilled. It specified that Bosnian Serb leader Radovan Karadzic should no longer hold a position of leadership in the Republika Srpska. Conference participants, however, did not agree to call for a re-imposition of sanctions against violators, but rather referred to sanctions as a measure of last resort. Finally, the Florence conference recommended to the OSCE that elections in Bosnia should take place on schedule on September 14.

### **Civilian Consolidation Plan And Second London Peace Implementation Conference, November-December 1996**

Prior to the second full meeting of the PIC in December 1996, the PIC Steering Board convened a meeting with the newly-elected Bosnian presidency and other Balkan ministers on November 14, 1996, in Paris. The meeting produced a set of guiding principles for civilian consolidation of the peace process over the next two years.

The civilian consolidation plan identified thirteen priorities for the two year period: implementing regional stabilization agreements; creating a secure environment and re-establishing law and order; ensuring respect of human rights; building and promoting democracy, including an independent media; conducting municipal elections in 1997 and general elections in 1998; increasing freedom of movement; facilitating the return or resettlement of refugees and displaced persons; fully cooperating with the International Criminal Tribunal; facilitating reconstruction and other economic assistance; creating conditions for a market economy; promoting long-term reconciliation; re-establishing educational systems; and making further progress in removing mines in Bosnia. The two-year period was divided into two "action plans" of twelve months each, with mid-term reviews.

The PIC meeting in London on December 4-5, 1996, lauded the progress made during the first year, especially the ongoing cessation of hostilities, the holding of elections, the establishment of common institutions, and the start of reconstruction. It noted, however, still little progress in refugee returns, observance of human rights, and freedom of movement, among other areas. The PIC endorsed the two-year civilian consolidation plan and outlined a specific action plan for 1997.

The PIC noted again that the task of consolidating peace was primarily the responsibility of the Bosnian authorities. The conference stated that the international community's willingness to expend human and financial resources would be conditional on the commitment of the Bosnian parties to implementation of the peace agreement.

### **Sintra Review Conference, May 1997**

Foreign Ministers representing the Steering Board of the PIC met in Sintra, Portugal, on May 30, 1997, to review peace implementation in Bosnia. The ministers concluded that all of the authorities in Bosnia were failing to live up fully to their obligations under the peace agreement, and that this was "unacceptable." They demanded a "significant acceleration" in implementation in numerous specific areas, such as the development of governmental institutions and the ability of refugees to return to their homes.<sup>9</sup> For the former, numerous deadlines were established for policy decisions to be made by the common Bosnian governmental institutions. The High Representative was charged with establishing further deadlines for decisions that remained outstanding.

At Sintra, the ministers re-emphasized the conditionality of international assistance on the parties' compliance with and implementation of the peace agreement. In particular, assistance for housing and infrastructure was to be dependent on the acceptance of return. Moreover, aid priority was to be given to municipalities receptive to the return of ethnic minorities.<sup>10</sup> The Sintra meeting also appointed Carlos Westendorp to replace Carl Bildt as High Representative.

Prior to the Sintra meeting, the U.S. Administration announced a renewed effort to accelerate progress in peace implementation in Bosnia. The top priorities for this new push included bringing war criminals to justice, developing self-sustaining democratic institutions, promoting the safe return of refugees, enhancing public security, and establishing a military balance.<sup>11</sup> The U.S. initiative did not address plans for possibly maintaining an international security presence in Bosnia after SFOR. In early April 1997, the State Department appointed Ambassador Robert Gelbard to be Special Representative of the President and Secretary of State for the Dayton Accords.

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<sup>9</sup>Communique, Declaration from the Ministerial Meeting of the Steering Board of the PIC, Sintra, May 30, 1997.

<sup>10</sup>Ibid., paragraph 46.

<sup>11</sup>"U.S. to accelerate efforts to implement Dayton Peace Accords," USIS Washington File, May 22, 1997.

## **Bonn Peace Implementation Conference, December 1997**

The Peace Implementation Council met in Bonn on December 9-10, 1997, to review progress in implementing the peace agreement. At Bonn, the Council noted progress in the following areas: municipal elections in September and early elections in the RS in November; arms control measures, police reform and restructuring; some progress in minority returns; economic revival in the Federation; the development of independent media; and the rise in the number of indicted war criminals in custody at the Hague. The Bonn meeting also specified areas where more progress was needed, especially in governmental structures, the protection of human rights, and refugee returns.

The Bonn conference enhanced the existing authority of the High Representative. It welcomed the High Representative's intention to make binding decisions, when necessary on certain issues. In a speech before the PIC, High Representative Carlos Westendorp stated that his ability to execute decisions would "break the log-jam" in areas where other approaches have failed. The initiative to strengthen the Office of the High Representative received strong backing from the United States, among others. The High Representative is now able to adopt interim measures to take effect when the Bosnian parties are unable to reach agreement. He is also able to make binding decisions on "other measures to ensure implementation of the peace agreement...as well as the smooth running of the common institutions." Such measures may include actions, including the dismissal from office, against persons in violation of their commitments under the peace agreement.

The Bonn conference established numerous additional deadlines for specified implementation measures. It invited the High Representative to take appropriate measures in case of non-compliance. In December, High Representative Westendorp utilized his enhanced authority by imposing interim laws on citizenship, customs tariffs, and landmines. These laws are to remain valid until the central Bosnian political leaders can come to agreement on final laws.

## **Status of Selected Implementation Provisions**

### **Formation of Governmental Institutions<sup>12</sup>**

The Dayton peace agreement affirmed the continued existence of the state of Bosnia and Herzegovina. The state consists of two Entities, the Federation of Bosnia and Herzegovina (largely inhabited by Croats and Bosniaks) and the Republika Srpska (RS-the Bosnian Serb Republic). The central Bosnian government has very limited powers, as specified in the new Bosnian constitution, which forms part of the peace agreement. All other powers are held by the two Entities. The Entities are

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<sup>12</sup>Prepared by (name redacted), Specialist in European Affairs.

entitled to establish “special parallel relationships” with neighboring states (i.e., Croatia and Serbia-Montenegro).

The Bosnian Constitution called for the establishment of six main central governmental institutions: the Presidency, the Council of Ministers; the Parliamentary Assembly; the Constitutional Court; the Central Bank and the Standing Committee on Military Matters. The first step to form new Bosnian central government institutions after the September 14, 1996 elections was taken with the first meeting of the three-person Bosnian collective Presidency on September 30, 1996 in Sarajevo. The Presidency’s three members are Bosniak Alija Izetbegovic (who is chairman of the Presidency), Serb Momcilo Krajisnik and Croat Kresimir Zubak. The Presidency approved the membership of the country’s new central bank on October 29, 1996. The bank is charged with setting Bosnia’s monetary policy.

The formation of the Council of Ministers for the central government was repeatedly delayed due to disputes over issues such as who would chair the body, who would be appointed as ministers and where the government would meet. After three months of deadlock (due in large part to Bosnian Serb obstruction), the 42-member Bosnian House of Representatives met for its first working session on January 3, 1997, and approved a Bosnian central government. The new government is led by two co-chairmen. Bosniak Haris Silajdzic and Serb Boro Botic alternate on a weekly basis in chairing the government. Croat Neven Tomic is the vice chairman of the government. The government has only three ministries. The Minister of Foreign Trade and Economy is Bosniak Mirsad Kurtovic. The Bosnian Foreign Minister is Croat Jadranko Prlic. The Minister of Civil Affairs and Communications is Serb Spasoje Albjanic. Each minister has two deputies representing the other two ethnic groups. The other house of the Bosnian Parliamentary Assembly, the 15-person House of Peoples, met for the first time on January 3, 1997.

In October 1996, the European Court of Human Rights nominated three judges as the international members of the Bosnia-Herzegovina Constitutional Court. The House of Representatives of the Federation elected two Bosniak judges to the Court on January 24, 1997 and two Croat judges on March 18. The judges from Republika Srpska were appointed by the National Assembly of Republika Srpska on March 16. The first working session of the Court, devoted to organizational issues, was held on May 23, 1997.

On June 1, 1997, the Standing Committee on Military Matters was formed. The committee is charged with coordinating the activities of the two entities. It consists of the three Presidency members, the defense ministers of the entities, the commanders of the armed forces of the entities, and a representative of the Bosnian foreign ministry. The establishment of the committee completed the setting up of the key governmental institutions called for in the peace agreement.

The protracted delays in forming these common institutions have been followed by even more glacial progress in taking concrete action. Wrangling over a package of critical economic legislation submitted by the Office of the High Representative (the “Quick Start Package”) continued for months. The package (including laws on the central bank, foreign debt, foreign trade, customs policy and tariffs, a Law on Immunity, and a Law on the Budget and Budget Execution) was only approved by

the Parliamentary Assembly on June 20, 1997 after warnings by the international community that a Bosnia aid conference could not go forward without passage of the legislative package. Action on other critical legislation continued to be stymied, however.

Frustrated at the deadlock, the High Representative, with the backing of the Peace Implementation Council, said at the December 1997 Bonn peace implementation conference that he would exercise his authority to set the timing, location and chairmanship of meetings of the common institutions; to impose interim measures on the parties until they reach agreement on an issue; and remove from office officials who are absent from meetings of the central institutions without good cause or who are in violation of legal commitments made under the Peace Agreement or the terms for its implementation. The warning appeared to be aimed at Bosnian Serb officials, who have obstructed the central government's work. On December 16, 1997, the High Representative imposed an interim law on citizenship. On December 24, the High Representative imposed three more laws: a customs tariff schedule and two laws on land mines. It is unclear how interim laws will be implemented if a side refuses to abide by the High Representative's decision.

**The Federation and Croat-Bosniak Relations.** The Federation was established in March 1994 with the mediation of the United States, but continuing Bosniak-Croat tensions stymied efforts to fully implement it. One stumbling block has been the desire of Croat nationalists, particularly in western Herzegovina, to unite with Croatia rather than form a federation within Bosnia with the Bosniaks (Muslims).<sup>13</sup> Under U.S. pressure, Bosnian Croats agreed to dissolve their Herceg-Bosnia para-state and merge its functions into the Federation by August 31, 1996. Little discernable progress toward this goal was achieved until December 19, 1996, when Bosnian Croat leader Kresimir Zubak announced that Herceg-Bosnia had been abolished, that its government and ministries had stopped functioning, and that power had been transferred to Federation institutions. Despite this announcement, Herceg-Bosnia institutions (as well as institutions of the wartime Bosniak government) continue to function. An October 1997 report by EU investigators charged that both Bosniak and Croat officials have diverted Federation revenues to finance these institutions. At its December 1997 meeting in Bonn, the Peace Implementation Council (PIC), demanded their elimination.

On September 14, 1996, voters in the Federation elected a new parliament and new canton legislatures. The newly-elected Federation parliament held its first session on November 6, and approved a federation flag, coat-of-arms and seal. The parliament also chose the Federation members to the Bosnia-Herzegovina House of Peoples. On December 18, 1996, the Federation parliament's House of Representatives approved a new post-election 14-minister Federation government. Bosniak Edhem Bicakcic was elected as Federation Prime Minister. Croat Drago Bilandzija was elected as Deputy Prime Minister and Finance Minister. Croat Ante Jelavic was elected as Federation Defense Minister. Bosniak Mehmed Zilic was

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<sup>13</sup>For background information on the Federation, see Congressional Research Service. Bosnia Muslim-Croat Federation: Key to Peace in Bosnia?, by (name redacted). CRS Report 96-526F. June 7, 1996.

chosen as Interior Minister. Each minister has a deputy from the other ethnic group.

A key aspect of setting up Federation government structures is the establishment of canton and municipal governments. Under the Federation constitution, the cantons have their own constitutions, legislatures, governments and courts, as well as wide-ranging powers in police matters, education, housing and other areas. During the September 14, 1996 elections, voters chose new cantonal assemblies. Formation of canton constitutions and governments, as well as determining cantonal and municipal boundaries, has been a difficult process, particularly in two formerly ethnically mixed areas where the Croat-Bosniak conflict was especially bitter, in Central Bosnia canton and Neretva (central Herzegovina) canton. Similar difficulties have occurred in forming municipal governments in some areas after the September 13-14, 1997 municipal elections.

**Mostar and Sarajevo.** A particularly contentious issue has been the reunification of Mostar. This city, the second-largest in the Federation, has been divided since brutal Croat-Bosniak fighting and ethnic cleansing in 1993-1994 created a purely Croat western Mostar and a crowded, impoverished, Bosniak eastern Mostar. Croat leaders in Mostar have strongly resisted past U.S. and international efforts to reunite the city. The European Union administered the city beginning in 1994. Efforts focused on freedom of movement between Croat and Bosniak areas, the establishment of a unified police force, a crackdown on organized crime (rampant in west Mostar and reportedly linked with local government officials), and the return of refugees to their homes. However, few of these objectives were achieved (with the exception of token joint police patrols), due mainly to the intransigence of Mostar's Croat leaders, many of whom view the Federation with deep suspicion.

European Union-monitored local elections for Mostar took place on June 30, 1996 without incident, a positive sign. However, the big winners were the main Croatian and Bosniak nationalist parties, while non-nationalist groups did poorly. The Bosniak Party of Democratic Action (SDA) won a slight majority over the Croatian Democratic Union (HDZ), due to large Bosniak majorities from polling places set up in Western Europe for refugees. The HDZ refused to recognize the final results of the vote, complaining of irregularities. After intense U.S. and European Union pressure, the HDZ reversed its position. The city council met and elected Croat Ivan Prskalo as mayor and Bosniak Safet Orucevic as deputy mayor on August 14. On December 31, 1996, the European Union's mandate to administer Mostar expired. The city is now administered by still bitterly divided local authorities, with the assistance of a local office of the High Representative. New local elections were held in Mostar on September 13-14, 1997. Another threatened HDZ boycott was avoided after a last-minute change of the election rules.

There has also been controversy over the Federation's largest city, Sarajevo. In March 1996, Bosnian Croat leaders protested against the formation of a cantonal government for Sarajevo composed largely of Bosniaks, which they viewed as ignoring Croat interests. The two sides subsequently agreed to jointly work out a complex, multi-layered administration for Sarajevo, including canton, city and district governments. However, talks over the next year moved very slowly. On October 25, 1996, the sides agreed on a Protocol on the Organization of Sarajevo. On March 27, 1997, leaders of the parties represented in the Sarajevo Canton

Assembly signed an agreement on establishing a City Council, electing a mayor of Sarajevo and his Deputies, and to amend the Federation and canton constitutions. However, the city council of Sarajevo was not established, and the Bonn peace implementation conference called for the council to be established by December 31, 1997.

**Forming a Unified Federation Army and Police Force.** Creating a joint Federation army from the Bosniak-dominated ARBiH and the Bosnian Croat HVO has been one of the most difficult issues in integrating the Federation. Mistrust between the two armies still lingers from the war they fought against each other just over two years ago. The ARBiH wants the Federation Army to be as integrated as possible at the lowest levels, while the HVO wants to keep its army intact, under a nominal joint Federal high command. After months of pressure from the United States, the Federation parliament passed a Defense Law on July 9, 1996 that established a Ministry of Defense and a joint command structure. Slow implementation of the law prompted further U.S. pressure, and Bosniak and Croat leaders agreed on October 2, 1996 to establish a joint command for the federal army. On January 29, 1997, the two sides announced an agreement on the organization of the Federation Ministry of Defense and the Joint Command.

Both sides also have also agreed to build common police forces. Earlier discussions on this issue had been stymied by issues as trivial as the color of the uniforms to be worn by the police officers. The formation of ethnically balanced cantonal police forces have encountered particular difficulties have occurred in the Neretva and Central Bosnia cantons, and in Sarajevo and Mostar.

**The Republika Srpska.** The Republika Srpska, the other entity within Bosnia-Herzegovina, moved more rapidly to set up its structures and start legislative work after the election, largely because the government and parliament are dominated by the nationalist Serbian Democratic Party (SDS). Bosniak members of the RS National Assembly (elected by refugees from the RS living on Federation territory) participate in the work of the National Assembly, despite having refused to take an oath of office that would have required them to pledge loyalty to Christianity and kiss a crucifix.

High Representative Carl Bildt expressed concern in a April 1997 report to the U.N. Security Council that many Republika Srpska laws and institutions continue to refer to RS statehood, and assert some control over issues such as foreign affairs, foreign economic policy and foreign exchange that are in the jurisdiction of the Bosnian central government, according to the peace agreement. Bildt also criticized the February 28, 1997 agreement between the RS and the Federal Republic of Yugoslavia and Republika Srpska on establishing a "special parallel relationship," charging that provisions on setting up a customs union between the RS and FRY were contrary to the peace agreement, and that the agreement must be reviewed by the Bosnia-Herzegovina Parliamentary Assembly and brought into line with the Bosnia Constitution. In addition, Bildt noted that the fact that the agreement was signed not by RS President Biljana Plavsic, but by Momcilo Krajisnik, the RS member of the Presidency of Bosnia-Herzegovina, was a violation of the RS Constitution.

A constitutional crisis emerged within the Republika Srpska in June 1997 during a power struggle between RS President Plavsic and fellow SDS members who support ousted SDS leader and indicted war criminal Radovan Karadzic. Plavsic attempted to fire RS Interior Minister Dragan Kijac for obstructing an investigation into two Bosnian Serb companies associated with Karadzic and Krajisnik, who Plavsic charges have been engaged in massive corruption. Plavsic also charged that Karadzic continues to control the SDS, the government and police from behind the scenes. Plavsic ordered the dissolution of the RS National Assembly on July 3 and new elections. The RS government, led by Karadzic supporter Premier Gojko Kljickovic, canceled Plavsic's decree, in violation of the RS Constitution.

New elections for the RS parliament were held on November 22-23, 1997. Neither the SDS and its hard-line ally the Radical Party, nor Plavsic's supporters were able to win a majority in the sharply divided parliament, which held its inaugural session on December 27, 1997. President Plavsic has proposed a non-party RS government of experts, but the hardliners have expressed opposition to the idea.

**Status of Implementation and Future Milestones.** The main central and entity governmental institutions have been formed, after long delays. Problems continue to exist in disputed cantons and municipalities within the Federation. While some progress has been made in formally creating new institutions, it should be stressed that they are very far from functioning effectively. Central government institutions have been stymied by the refusal of Bosnian Serb representatives to attend meetings of the presidency, government and parliament. The passage and implementation of key legislation needed to integrate Bosnia and revive its economy continues to lag. Central government ministries and the Constitutional Court have not been properly financed and staffed.

### **Status of the Brcko Region**

At the Dayton peace talks, perhaps the most intractable issue was the status of the strategic Brcko region in northeast Bosnia, which forms a key corridor between Serb-held regions in western Bosnia and Serbia. The peace agreement did not resolve the issue, but called for binding international arbitration by December 14, 1996 to determine who would control the region, held at that time by the Bosnian Serbs. The three-member arbitral tribunal would include one member from the Federation, one member from the Republika Srpska and one member chosen by the President of the International Court of Justice, who would serve as presiding officer. U.S. mediator Roberts Owen was chosen for this post. On December 8, 1996, the arbitral tribunal postponed its decision for another two months.

Faced with the irreconcilable positions of the two sides, who threatened to go to war over the issue, Roberts Owen announced on February 14, 1997 that a final decision on the status of Brcko would be postponed until March 15, 1998. Until then, a Deputy High Representative for Brcko would supervise the implementation of the peace accord in the region, with the authority to issue binding orders to local authorities that would supersede local laws, if necessary. Implementation tasks include ensuring freedom of movement, the return of refugees, preparing the way for free and fair local elections in September 1997, and promoting economic recovery



in the region. An expanded international police presence in the region is aimed at easing the process. At a Brcko implementation conference on March 7, 1997, High Representative Carl Bildt appointed U.S. diplomat William Farrand as the Brcko supervisor. On March 31, the UN Security Council passed Resolution 1103, increasing International Police Task Force (ITPF) strength by 186 police and 11 civilian personnel for deployment to Brcko. The Brcko's supervisor's office was opened on April 11, 1997. Municipal elections were held in Brcko on September 13-14, 1997, without major incidents. On December 31, 1997, a 230-man, multi-ethnic Brcko police force began operations and Farrand appointed judges for Brcko's multi-ethnic judiciary. On January 5, 1998, a multi-ethnic Brcko government held its first session.

### **Arms Control<sup>14</sup>**

Annex 1-B of the Dayton peace agreement covered so-called "regional stabilization" efforts, referring to arms control at regional and sub-regional (within former Yugoslavia) levels and confidence-building measures (see following section). The purpose of the arms control negotiations was for the parties to achieve balanced and stable force levels at the lowest possible numbers.

Arms stabilization measures were launched in mid-December 1995 with a conference in Bonn, Germany. The Balkan parties agreed to engage in separate negotiations on sub-regional arms control ("Article IV") and on confidence-building measures ("Article II"). Negotiations on regional (involving the former Yugoslavia and neighboring countries) arms control ("Article V") were to be undertaken under the auspices of the OSCE's Forum for Security Cooperation.

The objective of the sub-regional level of negotiations was to establish a regime of limits on military equipment in the categories laid out in the 1990 Treaty on Conventional Forces in Europe ("CFE treaty"). The parties and OSCE were given 180 days to conclude negotiations. The annex did not specify any enforcement mechanisms for compliance with the future accord. Were talks to break down or fail to conclude by 180 days (June 11, 1996), the annex provided a fail-safe formula on armaments limits along a 5:2:2 ratio: the Federal Republic of Yugoslavia would be limited to 75 percent of a predetermined baseline of collective arms holdings; Croatia would be limited to 30 percent; and Bosnia and Herzegovina 30 percent. Within Bosnia, the ratio of holdings between the Federation and Bosnian Serb Republic would be two to one.

Negotiations in Vienna got off to a rocky start in early January 1996. First, the talks were delayed one day over a dispute over the use of the term "Republika Srpska" at the talks, and compromise arrangements on terminology had to be made.<sup>15</sup> Further progress became stalled after the Yugoslav delegation did not provide OSCE

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<sup>14</sup>Prepared by (name redacted).

<sup>15</sup>The agreed designations were "parties to the Dayton agreement Annex 1B, Article 4." Reuters, January 5, 1996. The parties represented: Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, the Republika Srpska, the Republic of Croatia, and the Federal Republic of Yugoslavia.

with information on its holdings of heavy armaments by the 30-day, or January 13, deadline. Yugoslav authorities insisted that technical difficulties, not a lack of political will, prevented them from meeting the deadline. Talks briefly adjourned, while Yugoslavia was given more time to turn in its data lists to negotiations chairman General Vigeleik Eide, but resumed on January 23. In February, however, the Bosnian Serbs suspended all contacts with the Bosnian government in protest of the capture of a few top Bosnian Serb military leaders (two of whom were eventually brought to the Hague tribunal). The Bosnian Serbs briefly boycotted further stabilization talks in Vienna. Bosnian Serb leaders have repeatedly expressed dissatisfaction with the default disarmament terms within Bosnia (2:1 between the Federation and Bosnian Serb republic) outlined in the peace agreement.

OSCE negotiators aimed to have an agreement initialed on June 6 and signed on June 11. The basic principles for arms limitations were agreed to on June 6. However, last minute disputes broke out over the political status of the Republika Srpska; this time it was over whether the RS should be considered an equal party to the agreement or an “entity” subordinated to Bosnia and Herzegovina, as demanded by the Bosnian government. The Bosnian Federation also disputed the weapons stocks that were reported by the Federal Republic of Yugoslavia.

Finally, the accord on sub-regional arms control was signed on June 14 at the Florence Peace Implementation Council review meeting. The agreement set ceilings on five categories of armaments (tanks, armored combat vehicles, artillery, combat aircraft, and attack helicopters) along the same ratio as in the Dayton agreement (see table, below). The agreement did not apply to small arms or military equipment components. The terms of the accord were to be implemented in phases and completed within 16 months from July 1, 1996 (November 1997). Notwithstanding the agreement, implementation of the build-down and verification mechanisms will ultimately determine the success of the accord. The accord named the parties to be responsible for verification, with the assistance of the High Representative.

**Agreement on Sub-Regional Arms Control\***

	FRY	Croatia	Bosnia	: Federa- tion	: RS
Tanks	1025	410	410	273	137
Armored Vehicles	850	340	340	227	113
Artillery	3750	1500	1500	1000	500
Combat Aircraft	155	62	62	41	21
Helicop- ters	53	21	21	14	7

\* Article IV, Agreement on Sub-Regional Arms Control, June 14, 1996.

Implementation of the terms of the regional arms control accord began slowly. Numerous inspections were carried out, in accordance with the agreement, to verify compliance. In October 1996, the United States charged that the Bosnian Serb armed forces were under-reporting their equipment holdings “to an egregious degree” and were thus not meeting their treaty commitments.<sup>16</sup> The Bosnian Serbs were allegedly underreporting their holdings and attempting to retain their heavy weapons by exploiting accounting rules in the arms control agreement. Firm accounting of equipment holdings remains a difficult task. Estimates on the actual holdings of Bosnian Serb artillery pieces, for example, vary significantly.<sup>17</sup> In April 1997, High Representative Bildt noted that equipment reporting needed improvement, and that Federation authorities still needed to determine allocations within the Federation. NATO forces have seized and destroyed unauthorized weapons found in Bosnia. In November, the OSCE determined that the former Yugoslav parties had fully complied with their treaty obligations.

Prior to Dayton, many observers of the Bosnia conflict believed that the arms imbalance favoring the Bosnian Serbs, coupled with the U.N. arms embargo holding the imbalance in place, were major contributing factors to the outbreak and duration of the war. A Clinton Administration priority, shared by many in Congress, has been to promote an equilibrium of forces on the ground via a program to train and equip the Bosnian Federation forces. While the Administration supports arms control negotiations to bring about and implement a “build-down” of Bosnian forces and armaments, it has asserted that arms control measures would not preclude international efforts to equip and train the Bosnian Federation forces, provided such efforts remained consistent with the terms of lifting the arms embargo. The United States and Turkey co-sponsored an international conference on raising financial support for a train-and-equip program for the Bosnian Federation armed forces on March 15, 1996. On June 26, President Clinton certified compliance with the

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<sup>16</sup>Department of State Daily Press Briefing, October 29, 1996.

<sup>17</sup>The New York Times, October 19, 1996, p. A6.

requirement that all foreign forces be withdrawn from Bosnia. After the Federation parliament passed a common defense law on July 9, President Clinton gave final approval for the train and equip program, which subsequently included two shipments of military equipment. The Dayton peace agreement itself does not contain any provision corresponding or referring to the U.S.-led program to equip and train the Bosnian federation to establish a self-defense capability.<sup>18</sup>

In the Dayton peace agreement, the parties agreed not to import any arms for 90 days, and any heavy weapons for 180 days. The U.N. Security Council passed a resolution on November 22, 1995, lifting the U.N. embargo on armaments and military equipment to the former Yugoslavia in phases consistent with the peace agreement. The arms embargo was fully terminated on June 18, 1996.

**OSCE Role.** Germany sponsored an initial disarmament conference in Bonn on December 18, 1995. The parties agreed to commence regional stabilization talks in two groups: one on arms control, and one on confidence-building measures, both under the auspices of the OSCE. Negotiations for sub-regional arms control resumed on January 5, 1996, in Vienna.

The OSCE's Forum for Security Cooperation (FSC) was tasked with organizing and conducting negotiations on an arms control agreement. General Vigleik Eide of Norway was named OSCE Personal Representative of the OSCE Chairman-in-Office and chair of the negotiations.

The Agreement on Sub-Regional Arms Control created a sub-regional consultative commission, headed by the OSCE Personal Representative, to oversee implementation of the provisions of the accord.

#### **Status of Implementation and Future Milestones.**

- Within 30 days of the Paris peace conference, the five parties (representing Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, the Republika Srpska, Croatia, and the Federal Republic of Yugoslavia) were to have commenced negotiations, under OSCE auspices, on armaments levels. Both sets of negotiations began before the deadline. By the same time, they were to have submitted information on their holdings of heavy weapons. This requirement was met on January 23, after Yugoslavia was given an extension.
- The December Bonn conference set a deadline for arms control negotiations for June 6, 1996, with a signing on June 11. After some last-minute disputes, the arms limitation agreement was signed on June 14. The limitation levels are to be implemented in phased stages within 16 months from July 1, 1996. The agreement adhered to the default ratio of 5:2:2 of the baseline of armament holdings among Serbia-Montenegro, Croatia, and Bosnia and

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<sup>18</sup>For further information on the equip and train policy, see Congressional Research Service. Bosnia: U.S.-Led Train-and-Equip Program, by (name redacted). CRS Report 96-735F. Updated August 19, 1997.

Herzegovina. A 2:1 ratio between the Bosnian Federation and Republika Srpska was upheld.

- The U.N. ban on the import of small arms ended on March 13, 1996, or 90 days after the Paris peace conference, while the ban on heavy weapons remained in force for another 90 days. The arms embargo was fully lifted on June 18, 1996.
- The baseline validation period extended from August 18 until October 31, 1996. Numerous inspections were carried out during this period. Reductions of arms stockpiles covered by the accord began in October. First phase reductions, with a target of 1,700 pieces of military hardware, were to have been completed by December 31, 1996. Before leaving his post in June 1997, High Representative Carl Bildt charged that both Bosnian parties were not meeting agreement deadlines. All reductions were to be completed by November 1, 1997.
- On November 21, 1997, OSCE reported full compliance by the parties on fulfilling their reduction requirements under the arms control agreement. A total of nearly 6,600 heavy weapons were neutralized, and most of these were destroyed.
- At the Bonn PIC conference, the Council underlined the importance of starting the Article V process, regional arms control, without delay.

### **Confidence-building Measures<sup>19</sup>**

Article II of the annex on regional stabilization addresses confidence-and security-building measures (CSBMs) in Bosnia and Herzegovina. Negotiations, conducted under the auspices of the Organization for Security and Cooperation in Europe, were to devise an agreement on a series of measures to enhance mutual confidence, increase military transparency, and reduce the risk of renewed hostilities. Negotiations were to draw fully upon the OSCE's 1994 Vienna Document of the Negotiations on Confidence- and Security-Building Measures.

Negotiations on confidence-building measures aimed to increase transparency through the exchange of information on numbers and locations of weaponry, troops, and arms production facilities. They also sought to impose restrictions on military movements. At Vienna, the parties (from the Republic of Bosnia and Herzegovina, the Muslim-Croat Federation, and the Bosnian Serb Republic) agreed first to set up military liaison missions in Sarajevo.

On January 26, 1996, the parties signed an agreement outlining a set of confidence-building measures focusing on information-sharing, consultation and communication mechanisms, constraints on military operations and exercises, military contacts and visits, and a verification and inspection regime. Fifteen areas of confidence-building measures were covered by the agreement. They included: the

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<sup>19</sup>Prepared by (name redacted).

exchange of military information; notification of changes in command structure or equipment holdings; risk reduction; notification of certain military activities; restrictions on military deployments; restraints on reintroduction of foreign forces;<sup>20</sup> withdrawal of forces and heavy weapons to barracks; restrictions on locations of heavy weapons; notification of disbandment of irregular armed groups; identification and monitoring of weapons manufacturing; military contacts and cooperation; non-proliferation; verification and inspection regime; communications; and implementation assessment. The agreement went into force immediately. Lead negotiator Istvan Gyarmati of Hungary hailed the “substantial package” and especially noted the accompanying verification regime.

On March 13, Ambassador Gyarmati expressed satisfaction with cooperation on implementing the agreement on CSBMs. International teams arrived in Bosnia on March 11 to conduct verification inspections on military data on both Federation and Bosnian Serb republic territory. OSCE reported that the parties had carried out all of the agreement’s inspections in 1996.<sup>21</sup> In April 1997, the High Representative reported that implementation of the CSBMs continued to proceed satisfactorily.

A different kind of confidence-building measure contained in the peace agreement addressed prisoners of war. Annex 1A on military aspects included provisions on the mutual commitment to release and transfer all prisoners within a set time frame. At the time of the deadline, only some 200 persons had been released, leaving about 700 still in detention. The Bosnian government expressed reluctance to release all of its prisoners before it received information from the Bosnian Serbs on tens of thousands of missing persons. In early 1996, the U.S. Administration strongly pressed for the immediate release of all prisoners, in accordance with the peace agreement, which did not link prisoner release to the issue of missing persons. Then-Secretary of State Christopher indicated that the provision of U.S. reconstruction and military aid would be conditional on the parties’ adherence to the peace agreement.<sup>22</sup> Later, the contact group threatened to put off the donors’ reconstruction aid conference scheduled for mid-April until the Bosnian parties had met their obligations to release all prisoners. Under ICRC supervision, over half of the remaining 200 prisoners were released by the end of March and early April. ICRC has emphasized that no party has any valid reasons to continue to detain prisoners. By the end of 1997, approximately 1,100 prisoners of war were released under ICRC supervision.

The issue of missing persons remains important to the Bosnian parties. In October 1996, ICRC estimated that approximately 14,000 persons remained missing, some of whom could be subjected to hidden detention. International observers have also reported numerous incidents of arbitrary arrest and detention.

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<sup>20</sup>All forces of foreign origin were required to leave the territory of Bosnia and Herzegovina by January 13, 1996, a requirement that remained unfulfilled for months.

<sup>21</sup>General Accounting Office (GAO/NSIAD-97-132), *Bosnia Peace Operation*, May 1997, p. 39.

<sup>22</sup>Reuters, January 23, 1996; State Department Daily Press Briefing, January 24, 1996.

**OSCE and ICRC Roles.** The Organization on Security and Cooperation in Europe opened confidence and-security-building negotiations in Vienna on January 4, 1996. Negotiations, chaired by Istvan Gyarmati of Hungary, concluded on January 26 with an initial set of measures to enhance mutual confidence. The Vienna agreement established a Joint Consultative Commission (JCC), comprised of high-level representatives of each party and the High Representative, to oversee implementation. The JCC met for the first time on February 28, in Sarajevo. OSCE has also established international monitoring and verification teams to implement terms of the agreement.

With regard to prisoner exchanges and missing persons, the International Committee of the Red Cross has been the lead international agency overseeing this process. The peace agreement stated that the ICRC was to enjoy full and unimpeded access to all places where prisoners were being kept.

#### **Status of Implementation and Future Milestones.**

- As required by the peace agreement, lists of prisoners were provided to the International Committee of the Red Cross on January 4, 1996. Since Dayton, approximately 1,100 prisoners have been released.
- On January 5, at the Vienna negotiations, the parties agreed to set up military liaison missions in Sarajevo within ten days. The missions were established on January 15.
- By thirty days of the transfer of authority, or January 19, 1996, all prisoners were to have been released. On the day of the deadline, ICRC representatives reported that less than one-third of registered prisoners had been released. By December 1997, about 1,100 prisoners of war had been released. The High Representative has cited evidence of detained persons who had not been registered with the ICRC.
- Within forty-five days of the peace conference, negotiations on confidence-and-security-building measures were to have been completed. Negotiations in Vienna were concluded on January 26. The first on-site inspections were carried out on March 11-12. Ambassador Gyarmati has reported full compliance thus far with the Vienna agreement on CSBMs. Further military inspections, one on Federation territory and one on Bosnian Serb territory, were successfully carried out in mid-March. OSCE-led inspections continued until the end of June 1996.

#### **Elections<sup>23</sup>**

The early holding of free and fair elections was considered to be an essential precondition for stable, democratic and representative governance in Bosnia and Herzegovina. The Peace Agreement called for open contests for representatives in newly-created institutions and offices. Elections were envisaged for: the three-

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<sup>23</sup>Prepared by (name redacted).

member presidency of Bosnia and Herzegovina; the 42-seat House of Representatives of Bosnia and Herzegovina (which will then select delegates to the 15-seat House of People); the House of Representatives of the Bosnian Federation; the National Assembly of the Bosnian Serb Republic; the Presidency of the Bosnian Serb Republic; and, for local municipalities and cantonal governments within the Federation. Elections for political institutions at all levels above the municipal level (i.e., state, entity, and Federation canton) were held on September 14, 1996. The municipal vote was repeatedly postponed and is currently scheduled to be held on September 13-14, 1997.

In Annex 3 of the peace agreement, the parties agreed to ensure that conditions exist for the organization and conducting of free and fair elections. They requested that the Organization for Security and Cooperation in Europe (OSCE) provide assistance in organizing and supervising elections. Elections were to take place six months, or no later than nine months if a delay proved necessary, after the agreement came into force. An OSCE election commission was to adopt electoral rules on party and candidate registration, on voter and candidate eligibility, and on voter registration. OSCE was to supervise an open and fair campaign as well as all other aspects of the electoral process, and organize elections monitoring missions.

The elections annex defined an eligible voter to be any citizen of Bosnia and Herzegovina aged 18 or older and registered in the 1991 census for Bosnia and Herzegovina. A provisional electoral list containing approximately 3.2 million voters, based on the 1991 census, was drawn up by the provisional election commission. As a general rule, citizens were expected to vote where they lived in 1991. They could alternatively submit an absentee ballot for that municipality, or apply to the commission to cast their ballots elsewhere. About 4,000 polling stations were opened throughout Bosnia and Herzegovina. The constitution (Annex 4 of the Dayton peace agreement) barred persons indicted by the International Tribunal for the Former Yugoslavia from holding or seeking appointive, elective, or other public office.

Post-Dayton conditions in Bosnia and Herzegovina posed severe challenges to the effort to hold prompt elections. Lack of progress in certain areas of peace implementation and the general environment on the ground threatened to put off a decision to hold elections on schedule. Certain pre-conditions for a free, fair, and democratic vote were outlined in the peace agreement: a politically neutral environment free from fear and intimidation; freedom of expression, association, and the press; freedom of movement; and freedom of return for displaced persons and refugees.

OSCE was to decide by mid-June 1996 whether or not to approve of holding elections that September. Many observers, including OSCE officials, questioned whether elections should go forward under such adverse conditions. They pointed to the lack of progress in refugee return, restrictions on freedom of movement, restrictions on the independent media, and the continued political control practiced by indicted war criminals. The Clinton Administration was strongly in favor of the vote, arguing that delay would not improve the situation, but would rather strengthen forces for ethnic separation and partition. The United States also argued that elections were a prerequisite to the formation of the necessary political institutions



and entities envisaged by the peace agreement. OSCE Chair-in-Office Flavio Cotti eventually on June 25 issued certification for the elections to take place on September 14, 1996, even though he asserted that virtually none of the prerequisites for a free and fair vote had been fulfilled. Cotti concluded, however, that “there are no convincing alternatives” to holding elections.<sup>24</sup>

The decision to hold elections in September was most seriously challenged by the continued presence in power of Bosnian Serb leader Radovan Karadzic and General Ratko Mladic, both indicted by the Tribunal and ineligible by the Dayton agreement to run for or hold political office. At the end of June, Radovan Karadzic devolved most presidential powers to the RS Vice President, Biljana Plavsic, but did not formally resign. Moreover, Karadzic was elected to chair his party, the Serbian Democratic Party (SDS). Most international officials deemed Karadzic’s move unacceptable, and called for his full resignation as president and leader of the party. OSCE officials threatened to disqualify the SDS from the elections as long as Karadzic retained a position in the party. Ambassador Richard Holbrooke, chief architect of the Dayton peace agreement, returned to the former Yugoslavia in mid-July to pressure Serbian President Milosevic with sanctions unless Karadzic was removed from power in Republika Srpska. On July 19, Karadzic signed an agreement on fully relinquishing his positions as president of Republika Srpska and of the SDS. Karadzic also pledged to withdraw from all political activities and not appear in the media. A shortcoming of the Holbrooke agreement was that it did not call for Karadzic’s extradition, leaving open the possibility of continued, “behind the scenes,” activity by the former RS president. The agreement also did not address the standing of General Mladic who remains in firm control of the RS armed forces.

A sort of “test case” for the September elections were the municipal elections in Mostar. After some delay, elections were held in the European Union-administered city of Mostar on June 30. The city’s Muslim, Croat, and Serb voters cast ballots for the city assembly and local administrations in six municipalities. The results largely confirmed Mostar’s split along ethnic lines between Muslims and Croats. Moreover, the Croatian HDZ party at first refused to accept the election results. EU administrator for Mostar Ricardo Perez Casado nevertheless pointed to many successes in the voting process. Voter turnout was about 60%, a good deal higher than anticipated. Voters were able to cast ballots where they had resided in 1991, even when this involved crossing ethnic lines within the city. A strong IFOR presence and numerous EU and other international monitors contributed to area security and other practical challenges to the voting process in Mostar. In addition, refugees were able to cast remote ballots in designated European cities.

**National and Entity Elections, September 1996.** As the September 1996 election date approached, evidence mounted of “election engineering” through the registration process. In an apparent attempt to skew the district voting results in strategically located municipalities, significant numbers of refugees, primarily ethnic Serbs, utilized the option of registering to vote where they “intended” to live. While the Dayton agreement allowed for the possibility of registering in a different location, international officials viewed that widespread manipulation of the registration

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<sup>24</sup>Declaration of the OSCE Chairman-in-Office, Vienna, June 25, 1996.

process would seriously distort the elections at the local level. As a result, OSCE chair Ambassador Frowick formally postponed the municipal elections on August 27, but reaffirmed higher level elections for September 14.

Absentee balloting for refugees living abroad commenced on August 28. Over 640,000 refugees from 55 countries had registered to vote. The absentee vote constituted a substantial portion of the overall vote.

Elections in Bosnia and Herzegovina were held on September 14, 1996, under OSCE supervision with IFOR assistance. OSCE, IFOR, and the IPTF designated and established 19 secure routes across the IEBL for persons voting across entity lines. Fewer security problems than expected surfaced, in large part due to the relatively small number of persons (about 20,000) who crossed the IEBL to cast their ballots. According to the High Representative, the elections were held in a “calm, orderly and dignified manner,” with “no serious restrictions to freedom of movement.”<sup>25</sup> The Coordinator for International Monitoring, Edward van Thijn, assessed that the elections went well from a technical viewpoint, but that the general climate surrounding the elections indicated numerous imperfections. Clinton Administration officials called the elections a “remarkable achievement,” and a “victory for the democratic process.”

In contrast, some human rights observers reported numerous instances of irregularities at the polling stations, cases of voter intimidation, and extensive limitations on freedom of movement. After the vote, one international monitoring group, the International Crisis Group (ICG), asserted that the preliminary election results, when considered against OSCE estimates on the number of eligible voters, revealed a voter turnout of well over 100%, indicating likely fraud. OSCE officials countered by revising their estimate on the number of eligible voters. The ICG also asserted that the elections should not have been declared free, fair or democratic.<sup>26</sup>

In response to complaints filed by the Party for Democratic Action and by the International Crisis Group, the election appeals subcommittee issued a recommendation on September 27 that the ballots be recounted in order to rebuff charges of voter fraud. The provisional election commission, however, overruled the recommendation, and Ambassador Frowick certified the election results on September 29. The results provided by the OSCE are as follows:

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<sup>25</sup>Report from the High Representative for Implementation of the Peace Agreement, September 29, 1996, S/1996/814.

<sup>26</sup>ICG Bosnia Report No. 16, Elections in Bosnia and Herzegovina, September 22, 1996.

**Results: B-H Presidency**

Winner	No. of votes	approx % of vote w/in group
Chairman: Alija Izetbegovic (SDA)	730,592	80%
Momcilo Krajisnik (SDS)	690,646	90%
Kresimir Zubak (HDZ)	330,477	65%

**Results: B-H House of Representatives**

Party	No. of votes	Seats/42
Federation: SDA	725,417	16
HDZ	338,440	8
Joint List	105,918	2
Party for B-H	93,816	2
RS: SDS	578,723	9
SDA	184,553	3
Alliance for Peace/Progress	136,077	2

**Results: RS Assembly**

Party	No. of votes	Seats/83
SDS	568,980	45
SDA	177,388	14
Alliance for Peace/Progress	125,372	10
Serb Radical Party	72,511	6
Democratic Bloc	32,895	2
Party for B-H	25,593	2

**Results: RS President**

Candidate	No. of votes	approx % of vote
Biljana Plavsic (SDS)	636,654	60
Abid Djozic (SDA)	197,389	18
Zivko Radisic (Alliance for Peace/Progress)	168,024	16

**Results: Federation House of Representatives**

Party	No. of votes	Seats/140
SDA	725,810	78
HDZ	337,794	36
Joint List	105,897	11
Party for B-H	98,207	10

As widely expected, the nationalist parties and candidates won majorities in each entity. The term of office for all of those elected in September 1996 is two years. Some observers feared that the results would further mark the differences between the ethnic groups and facilitate an eventual division of Bosnia along ethnic lines. At the national Bosnian level, the political will of the elected officials, especially the Bosnian Serbs, to construct and support joint governmental institutions has been weak at best. Other observers pointed to the gains of the opposition particularly in the Serb republic as positive signs of fledgling political plurality. The ruling SDS received less than a two-thirds majority in the entity parliament, and the Muslim vote via absentee balloting secured a second-place showing for the SDA. Opposition parties are expected in some areas to make a stronger showing in the municipal vote.

**Municipal Elections, September 1997.** In October 1996, the municipal elections were postponed for a second time until 1997. In January 1997, the Provisional Election Committee set July 12-13, 1997, as a target date. In March, however, the OSCE ruled that additional time for preparation was needed, and further postponed the election date until September 13-14.

The problem of voter registration options for refugees and displaced persons was reviewed by the OSCE. The ruling Bosnian Serb party conditioned its participation in the municipal vote on the continued option for refugees to vote in areas of intended residence, while the Muslim SDA insisted on the abolition of this option. On January 28, 1997, the PEC adopted new rules and regulations for the municipal elections. All prospective Bosnian voters had to re-register for the local vote. The PEC upheld the principle of allowing refugees to register where they intended to live, but established stricter rules for this option. Refugees must prove with documentation legitimate reasons for registering with a particular municipality.

Voter registration opened on May 5 and extended to June 28. Ethnically mixed or disputed cities, such as Brcko, were considered to be especially susceptible to attempts at registration manipulation, since the voting outcome in these cities may be especially significant for both entities. In response to specific cases of registration violations, the Election Appeals Sub-Commission has imposed penalties on Bosnian Serb and Bosnian Croat political parties, primarily by striking various party candidates from party lists. Pervasive registration violations observed in Brcko prompted the OSCE to close registration centers in that city in June and establish a new registration process.

OSCE estimated that approximately 2.5 million persons had registered for the September vote. 93 parties registered to participate in the vote in a total of 136 municipalities. As IFOR had, SFOR assisted OSCE with security and logistical assistance for the elections, and little violence was reported on the election days. An estimated 87% of registered voters participated in the vote. OSCE mission chief Robert Frowick called the September vote a “great achievement.”

Overall, nationalist Serb, Muslim, or Croat parties won the largest shares of the vote. Only in Tuzla did non-nationalist parties win a majority in the local council. In Brcko, Bosnian Serb parties won a majority of city council seats. In Srebrenica, the Muslim Party for Democratic Action won a majority, even though virtually no Muslims have returned to Srebrenica since they were driven out in mid-1995. The Muslim victory was achieved through the option of absentee voting. Ethnic Serb parties won a majority in the western city of Drvar, currently controlled by Croats but formally with an ethnic Serb majority. In Mostar, the Muslim Party for Democratic Action won a majority over the Bosnian Croat party.

Implementation of the municipal election results was thought to be problematic. The OSCE pressed for swift formation of the local councils and assemblies, holding out on final certification until the local political bodies were in place and functioning. By the end of 1997, 133 out of 136 municipal councils had convened their inaugural meetings. The exceptions were Srebrenica, Zepce, and Vares.

**RS Special Elections, November 1997.** In July 1997, President Biljana Plavsic dissolved the RS parliamentary assembly and called for new elections. Mrs. Plavsic’s new party, the Serb People’s Alliance, aimed to break the stronghold of the hardline Serb Democratic Party (SDS), the party of Radovan Karadzic. Javier Ruperez was appointed Special Representative of the OSCE to supervise the RS vote scheduled for November 22-23. Nearly 70% of voters in the RS participated. On November 24, Mr. Ruperez stated that the election represented “a step forward”, and determined that it was well administered from a technical standpoint. He noted, however, that the political environment in the RS fell short of democratic standards.

On December 7, OSCE announced the provisional results of the RS vote as follows. No single party won a majority. An estimated 75% of the population participated.

**Results: RS Assembly**

Party	Seats/83
SDS	24
Coalition for a Single and Democratic Bosnia	16
Serb People's Alliance	15
Serb Radical Party	15
RS Socialist Party	9
Independent Social Democrats	2
Others	2

**OSCE Role.** The Organization for Security and Cooperation in Europe was requested by the peace agreement to assist in preparing for, organizing, and monitoring free elections. OSCE has twice extended its mandate in Bosnia, which currently runs through December 1998. In late 1996, all Bosnian authorities agreed to OSCE supervision of the municipal elections to be held in 1997. In September 1997, the OSCE agreed to supervise the special Republika Sprska elections in November; 150 international observers monitored the vote

The Annex on elections in the peace agreement called for the establishment of a Provisional Election Commission. The commission is led by the head of the OSCE mission. On January 30, 1996, the OSCE designated a seven-member international commission to prepare for and supervise elections. It is comprised of OSCE mission head Robert Frowick of the United States, representatives from Britain, Germany, and Canada, and three Bosnian representatives (one from the Bosnian Serb republic, Slobodan Kovac, one from the Bosnian government, Kasim Begic, and one from the Muslim-Croat Federation, Mate Tadic). The provisional election commission is eventually to be replaced by a permanent elections commission, comprised of both government and opposition representatives, after the municipal elections are held.

OSCE fielded 1,200 international monitors to supervise the September 1996 elections out of over two dozen field offices throughout Bosnia and Herzegovina. A Coordinator for International Monitoring (CIM) office, headed by Edward van Thijn, was in charge of the campaign and election day monitoring missions. OSCE has also sponsored an Open Broadcast Network project to assist in providing television access to non-governing political parties and candidates. The OSCE's Media Experts Commission (MEC) is charged with monitoring media compliance with election rules and regulations.

IFOR, SFOR, and the IPTF provided extensive support to OSCE in both the national/entity and municipal votes. In the September 1996 vote, IFOR units provided area security for 19 designated routes across the IEBL, guarded selected polling stations, and transported ballot boxes and other supplies relating to the elections. SFOR extended similar assistance to OSCE for the September 1997 local vote and the November 1997 elections in the Republika Srpska.

**Status of Implementation and Future Milestones.**

- On February 23, 1996, the provisional electoral commission adopted a framework electoral code which established basic rules and regulations for the Bosnian elections. The framework document included decisions on several issues, including the basic approach to voter registration, the registration of political parties, and access to the media. The provisional election commission published a provisional voter list, based on the 1991 census, at the end of March.
- On April 22, the provisional election commission adopted formal rules and regulations for the elections. All Bosnian citizens were to be given the option of voting where they were registered, or by applying to vote by absentee ballot or in a different municipality (i.e. where they currently live).
- Originally scheduled for May 31, the Federation held municipal elections in Mostar, which has been under European Union administration, on June 30. The EU validated the election results.
- Italian Foreign Minister Flavio Cotti, the OSCE Chairman-in-Office, certified on June 25 that elections would go forward on September 14, 1996. Ambassador Robert Frowick announced the start of the campaign on July 19, the day that Radovan Karadzic agreed to relinquish political office. On August 27, OSCE election commission chairman Robert Frowick postponed municipal elections due to widespread abuse of the rules and regulations at the municipal level, but confirmed that elections at the higher levels would proceed.
- National and entity elections in Bosnia and Herzegovina were held on September 14, 1996. Elected officials will serve a two-year term.
- On September 29, OSCE chief Robert Frowick certified the results of the September 14 elections. The validation came in spite of the recommendation two days earlier by the elections appeals subcommission that all ballots be recounted. Certification paved the way for the United Nations to terminate all sanctions against Serbia-Montenegro on October 1.
- After numerous delays, municipal elections were held on September 13-14, 1997.
- Special parliamentary elections were held in the Republika Srpska on November 22-23, 1997.
- At the December 1997 Bonn PIC conference, the PIC established a deadline of December 31, 1997, for the full implementation of the local election results. It also declared that the High Representative and the OSCE would impose final and binding arbitration in places where the local councils and assemblies have not yet been certified by February 28, 1998.
- The next national and entity elections are to be held by September 1998.

## Civil Police Task Force<sup>27</sup>

The Dayton Peace Agreement requested that an international police task force (IPTF) be formed to assist the Bosnian parties establish a safe and secure environment. The task force's program of assistance outlined in Annex 11 included: monitoring and observing law enforcement activities, advising and training local enforcement personnel and authorities, facilitating law enforcement activities, and accompanying local law enforcement personnel in joint patrols as they carry out their responsibilities.

In the first year, the task force's limited mandate involved primarily monitoring and observing. As in other U.N. civilian police operations, IPTF officers are unarmed. The task force does not have any executive authority in a law enforcement capacity, and therefore cannot arrest or detain persons (including war criminals). It is intended not to establish conditions of law and order by itself, but to assist Bosnian Federation and Republika Sprska law enforcement agencies achieve this and to report on any violations.

In view of the importance of an effective police force to establishing and maintaining conditions of peace and security, many observers have criticized the weak mandate of the U.N. police task force, as well as its small size. NATO and U.N. officials at first expressed dissatisfaction with the slow arrival and small size of the U.N. police task force.<sup>28</sup> Some police forces from contributing countries lacked language and/or driving skills.<sup>29</sup> Since mid-1996, however, the U.N. Secretary-General reported improvements in regard to the problem of unqualified monitors.<sup>30</sup> Overall, however, many observers have noted a "policing gap" in the Dayton accords, and have advocated a stronger mandate for the IPTF. In December 1997, U.S. Defense Secretary William Cohen urged a greater commitment and contribution by the European countries to the IPTF.

Policing functions were explicitly excluded from the mandate of NATO's peacekeeping missions. NATO has drawn a sharp distinction between establishing military security (part of IFOR's and SFOR's mandate) and securing law and order. NATO officials have insisted that IFOR's and SFOR's role is not to stop crime. However, various cases have demonstrated that policing needs in Bosnia remained beyond what the police task force could or was supposed to address. For example, the violent and unruly unification of Sarajevo in early 1996 demonstrated a complete breakdown of law and order. IFOR expanded its troop presence in the capital suburbs, but did not intervene during the incidents of violence and arson in the

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<sup>27</sup>Prepared by (name redacted).

<sup>28</sup>The Washington Post, February 2, 1996.

<sup>29</sup>See The Washington Post, February 6, 1996, and The New York Times, March 21, 1996.

<sup>30</sup>Report of the Secretary-General pursuant to Security Council Resolution 1035, S/1996/460, June 21, 1996.



Sarajevo suburbs.<sup>31</sup> In early 1997, SFOR units disengaged from violent incidents in Mostar and Gajevi, both involving attacks on unarmed civilians, citing them as “criminal acts.” SFOR has taken action against paramilitary, or “special police” units, such as the kind that guard certain indicted war criminals. In August 1997, SFOR determined that “special police” forces would be considered as regular military units and subject to the same restrictions under Dayton as regular armed forces.

Another problem has been that local police personnel themselves have been responsible for most of the human rights abuses or other violations that obstruct peace implementation. International agencies have criticized the local police authorities of both Bosnian entities for setting up illegal checkpoints, restricting freedom of movement, especially for displaced persons, and imprisoning persons without cause. The High Representative has also noted an increase during 1996 in incidents of police beatings and police participation in politically motivated crimes.

In some security concerns, the IPTF has worked with the NATO force and other organizations. In May 1997, IPTF, SFOR, and the High Representative established a Freedom of Movement Task Force that has, among other things, removed illegal checkpoints that limit freedom of movement. In December 1997, the High Representative noted improvement in freedom of movement as a result of this stringent removal of illegal checkpoints. Beginning in August, the IPTF and SFOR have conducted weapons inspections in local police stations. Illegal weapons found during these inspections were confiscated. The IPTF has also assisted the OSCE in enhancing security for elections, and has worked with other U.N. agencies on human rights violations by law enforcement agencies.

The second functional component of IPTF’s mandate concerns advising and training local police. The IPTF is assisting the parties in planning the reduction, restructuring, screening, and training of their police forces. Training and restructuring at first progressed only with Federation police. A formal agreement on police restructuring between the IPTF and the Republika Srpska was reached in September 1997. On occasion the IPTF has sought from the respective internal affairs ministries the removal of certain local police personnel who were not in compliance with the peace agreement.

The December 1996 London Peace Implementation Council conference called on the international community to support IPTF’s continuing efforts to implement Annex 11 tasks. It called on the IPTF to focus on the restructuring of local police forces, including giving advice on the selection, promotion, and dismissal of local police officials, investigating allegations of human rights abuses by law enforcement officers, and monitoring the treatment of persons detained by local law enforcement authorities. In view of this request, the U.N. Secretary-General later recommended an increase in the size of IPTF’s personnel to fulfill these expanded responsibilities. IPTF has carried out investigations into human rights abuses by local police authorities in Mostar, Brcko, Drvar, and Gajevi.

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<sup>31</sup>For example, see The New York Times and The Washington Post, March 18, 1996.

**U.N. Role.** The Peace Agreement requested that an international police task force be established by the United Nations as a U.N. Civilian Police operation to administer a program of assistance. On December 21, 1995, the U.N. Security Council passed Resolution 1035, which authorized the establishment of the International Police Task Force for one year at a strength of 1,721 persons. The U.N. mandate in Bosnia, including the IPTF, currently extends through June 1998.

The U.N. police task force is headed by a Police Commissioner who reports to the High Representative. The U.N. Secretary-General appointed Peter Fitzgerald of Ireland to be Police Commissioner on January 15, 1996. Manfred Seitner of Denmark replaced Fitzgerald on March 3, 1997. The IPTF is headquartered in Sarajevo, with five regional headquarters, 17 central police districts, and 109 police stations, corresponding with locations of local police offices. 40 nations currently contribute monitors to the IPTF. Its strength in December 1997 was just over 2,000.

In March 1997, the U.N. Secretary-General recommended to the Security Council that the IPTF be enlarged to address two additional police tasks: to expand the international police presence in Brcko as a result of the February 1997 arbitral decision; and to carry out investigative tasks into human rights violations assigned to the IPTF by the December 1996 London conference. For the former task, the Security Council authorized IPTF strength to be increased by 186 civilian police and 11 civilian personnel on March 31, 1997 (S/Res/1103). On May 16, 1997, the Security Council authorized an additional 120 police personnel for the addition of the investigative function (S/Res/1107). Total authorized strength for IPTF stands at 2,027.

#### **Status of Implementation and Future Milestones.**

- Within 30 days, the Bosnian parties were to have provided the Task Force commissioner with information on their law enforcement agencies. This information was provided to the United Nations through a U.N. police reconnaissance mission conducted in December 1995.
- The task force was assembled and deployed somewhat slowly at first. U.N. officials attributed the delay to the reluctance of member countries to release active duty police officers from service and to the lack of qualifications of some of the monitors.<sup>32</sup> In December 1997, the strength of IPTF reached just over 2,000 from 40 countries.
- Representatives from over thirty countries met in Dublin, Ireland on September 28, 1996, to raise funds for the development of a democratic police force in Bosnia. The conference sought to raise \$99 million in pledges for training and equipping Bosnian civil police.
- The Western European Union (WEU), which had deployed civil police monitors to Mostar, transferred authority to the IPTF on October 15, 1996.

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<sup>32</sup>Reuters, January 15, 1996.

- On September 24, 1997, the IPTF concluded an agreement with RS authorities on a police restructuring program in the Republika Srpska.
- At the December 1997 PIC conference, High Representative Westendorp reported progress in police restructuring in the Federation, and recent agreements with the RS to begin similar restructuring. However, he noted that the police by and large continue to fall below basic standards of conduct.

## **Refugees and Displaced Persons<sup>33</sup>**

Annex 7 of the Dayton Peace Agreement states that all refugees and displaced persons have the right to return to their homes and have their property restored, or receive financial compensation. The accords direct UNHCR to repatriate refugees and return displaced persons to their homes. The agreement also established a Commission to receive and decide on claims for the return of property or for just compensation to these persons. While progress has been made in restoring the infrastructure of the country and returning the refugees and displaced to their homes, it is clear that the process will not be finished as quickly as the international community anticipated during the peace negotiations.

Since January 1997, the Office of the U.N. High Commissioner for Refugees (UNHCR) estimates that 110,000 persons from Bosnia from outside the country and 60,000 internally displaced have returned to their areas of origin. In 1996, 88,000 refugees and 164,000 displaced returned. Most returns have been to areas where the returnees are of the same ethnic background as the local majority population, the so-called "majority return movements." UNHCR plans to help up to 220,000 refugees from abroad to return to Bosnia-Herzegovina during 1998. If 50,000 return to areas where they are in the ethnic minority by June, it would be a breakthrough. In all, over 400,000 refugees and displaced have returned to Bosnia since the Dayton agreement, but only 32,000 to areas where they are ethnic minorities.

During the war, 1.2 million Bosniaks sought refuge in neighboring countries, including 585,000 in other parts of the former Yugoslavia. According to UNHCR, about 700,000 of these remain in exile at the end of 1997, about 340,000 of them in other parts of the former Yugoslavia. An additional 1.3 million, about 30 percent of the population of Bosnia and Herzegovina, were displaced from their homes by warfare but did not leave the country. About 800,000 are still displaced. Most of those remaining abroad and displaced within Bosnia would be ethnic minorities if they returned to their own homes.

During 1998, UNHCR anticipates that 870,000 of the population in Bosnia will need some kind of assistance, down from 1.9 million in 1997. An additional 660,100 persons in other parts of former Yugoslavia will also need UNHCR assistance, many

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<sup>33</sup>Prepared by Lois McHugh, Analyst in International Relations. See also Congressional Research Service. Bosnia-former Yugoslavia: Refugee Repatriation and Humanitarian Assistance Under the Peace Agreement, by Lois McHugh. CRS Report 96-69F. June 13, 1996.

of them from Bosnia. Over 1.7 million in the former Yugoslavia remain away from their former homes.<sup>34</sup>

On November 24, 1997, a plan to provide aid costing \$406 million for calendar 1998 was presented to donor countries as part of a two year (1997-98) program. UNHCR repatriation and humanitarian aid programs would include programs in Bosnia (\$263.4 million), Croatia (\$44.6 million), Federal Republic of Yugoslavia (\$45.5 million), and Macedonia (\$3.4 million). USAID Office of Foreign Disaster Assistance (OFDA) reports that the United States provided \$399.3 million in FY1996 and \$282.6 million in FY1997 to humanitarian programs throughout the former Yugoslavia.<sup>35</sup>

As part of the repatriation effort, UNHCR has taken several steps to improve confidence of displaced persons so they will be encouraged to return home. UNHCR has prepared reports on living conditions in the 75 Bosnian municipalities and these are kept up to date by local UNHCR staff. They are available in asylum countries and to local and national governments in the former Yugoslavia. Regular bus service across the Inter-Entity Boundary Line (IEBL) has been provided since the Spring of 1996 to enable residents to return to their homes or residential areas for visits or to repair their houses. It now has 14 routes and represents the only public transit across ethnic lines. In 1998, UNHCR will expand this service and turn it over to local private operators. UNHCR has established eight transit shelters to provide information and assistance for returnees and displaced persons.

Twenty six thousand homes sheltering 126,000 persons have been repaired under UNHCR auspices as a result of last year's \$30 million program to provide loans to homeowners. Building materials are purchased locally, helping to restart the economy. USAID's \$25 million home repair program, which was completed in December 1996, provided extensive repairs to 2,500 badly damaged houses, the majority located near the U.S. area of responsibility. Several plans are being considered to provide credit programs for 1998 for housing reconstruction or repair. Housing assistance will be the largest component of the 1998 budget and aid will be focused on the return of minority groups and reconstruction in the now demilitarized zones of separation. In addition, UNHCR will encourage other donors to fund reconstruction in areas which will likely see voluntary returns of large groups. One of the most serious obstacles to repatriation is that in many cases, displaced people are occupying the homes of other displaced people, preventing them from returning home. When these houses are occupied by members of the ethnic group which is in the majority, the situation is even more difficult. The presence of mines is another of the major obstacles to the returning population. From August 1996 to August

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<sup>34</sup>United Nations Consolidated Inter-Agency Appeal for Bosnia and Herzegovina, Croatia, Federal Republic of Yugoslavia, Former Yugoslav Republic of Macedonia. January-December 1998. United Nations. November 1997.

<sup>35</sup>Of the \$282,649,968 in FY1997, \$78.2 million came from the Migration and Refugee Account, \$43.7 million from the Food Aid Account, \$19.7 million from the OFDA, \$7.6 million from the Office of Transition Initiative, \$131 million from bilateral foreign aid funds designated for Europe and the New Independent States, and \$2.45 million from Department of Defense Humanitarian Assistance funds.

1997, an average of 30-35 civilian mine casualties occurred each month. UNHCR will support demining activities around targeted housing reconstruction.

Income generation programs will be increased in 1998, focusing on poor Bosnian families, including returnees, displaced persons and vulnerable people. The Bosnian Women's Initiative (BWI), started with a \$5 million U.S. contribution in 1996, has established 125 programs which help war affected women and their families from all ethnic groups restart their lives. The 1998 budget for the BWI program is \$3.9 million.

UNHCR has repeatedly objected to numerous repatriation obstacles imposed by all sides, despite guarantees in the Dayton agreement, that make repatriation nearly impossible. All three ethnic groups continue to resist the return of minority residents. Relief officials have expressed concern about the continuing destruction of the homes of minorities who want to return. In April 1997, UNHCR announced a new program to help resolve the minority resettlement issue and bypass obstructive local officials. This "open cities" program provides supplementary community aid and other inducements to municipalities which are willing to allow and ease the resettlement of previous residents who are ethnic minorities to their homes. The special areas are required to meet such criteria as allowing minorities to become part of the police force and government administrations and to have access to medical, school, and other local services. This open cities program will be the focus of UNHCR activities in 1998.

UNHCR has also repeatedly stated that repatriation requires the successful implementation of other components of the agreement to make Bosnia and Herzegovina safe and peaceful in order to convince the displaced and refugees to return. On June 20, 1997, UNHCR spokesman Carrol Faubert, discussed conditions needed in Bosnia to encourage Bosniaks to return, in particular to minority areas. He stated that arrest of war criminals, removal of certain leaders, and establishment of a democratic police force would resolve repatriation problems. Other problems include: resolving the fate of the nearly 20,000 missing, ensuring the rights of minorities, establishing laws on citizenship and property ownership, including property rights of minorities.

UNHCR officials state that it is still premature for countries hosting Bosnian refugees to repatriate refugees who originate from minority areas, are members of mixed marriages, and those special cases of ex-detainees or victims of extreme violence at the present time. During 1997, Germany provided assistance to facilitate the return of 35,223 refugees to Bosnia. Thirteen countries are offering repatriation incentives of cash and transportation to refugees and to the communities they come from in Bosnia to assist in their reintegration.

**UNHCR and Local Refugee Commission Roles.** In addition to its role in the repatriation and resettling of refugees and the displaced, UNHCR continues to be the lead agency in humanitarian relief in former Yugoslavia, coordinating the humanitarian assistance provided by many governmental and private relief agencies. UNHCR has placed liaison officers with the Commander of the Implementation and Stabilization Forces and has regular meetings with the High Representative and the United Nations Coordinator. Other partners include the U.N. agencies, the OSCE,

the World Bank, the European Bank for Reconstruction and Development, the ICRC, International Organization for Migration, bilateral development agencies and private voluntary agencies.

The Commission on Real Property Claims of Displaced Persons and Refugees is composed of nine local members, four members appointed by the Bosnian Federation, two by the Bosnian Serb Republic, and three by the European Court of Human Rights. It had received over 42,000 real property claims by early October 1997 and has begun to address the complicated issues of reconstructing accurate and acceptable property records and searching for options for those who cannot, or do not wish to return to their homes or other property. Unresolved issues of property claims is a key factor in the return of refugees and the displaced, reconstruction efforts, economic development, human rights protection and social rebuilding. During 1998, the Commission will focus on activities to improve information on property rights and laws, ease the process for reclaiming property, and provide options for those whose property is not returned.

#### **Status of Implementation and Future Milestones.**

- In November 1997, the U.N. released its Consolidated appeal for 1998 asking \$406 million for repatriation and humanitarian aid for calendar 1998. This includes programs in Bosnia (\$263 million), Croatia (\$45 million), Federal Republic of Yugoslavia (\$45 million), Macedonia (\$3 million) and other regional programs (\$46 million). This is a multi-agency appeal.
- UNHCR estimates that approximately 170,000 persons returned or relocated in Bosnia during 1997.
- Return of refugees and displaced is not occurring as quickly as the international community hoped. Most of those who have returned are returning to areas where they are part of the majority ethnic group. In addition to local opposition to the return of ethnic minorities, both the occupation of homes by other displaced persons and land mines are preventing the return of the owners.
- The Commission on Real Property Claims of Displaced Persons and Refugees, called for in the Dayton agreement, was inaugurated on March 27, 1996. It is comprised of three members of the European Court of Human Rights, four representatives from the Muslim-Croat Federation, and two from the Bosnian Serb Republic. The commission will handle compensation claims of refugees and displaced persons and adjudicate ownership claims. The commission has established three regional offices in Bosnia-Herzegovina and received 42,000 property claims by early October, 1997.

## Human Rights<sup>36</sup>

Extreme violations of human rights characterized the Bosnian war in 1992 through 1995. The cessation of fighting and process of building peace were hoped to restore more humane conditions and safeguard basic rights and freedoms in Bosnia. The peace process included proposals to create a web of institutions to closely monitor the human rights situation in Bosnia and to press for the protection of human rights.

The Dayton peace agreement contained extensive human rights provisions and established new offices and mechanisms to oversee observance of human rights. Annex 4 of the peace agreement, the constitution, enumerated basic human rights and freedoms to be enjoyed by all persons within Bosnia and Herzegovina. The constitution stated that the rights and freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms shall have priority over all other law. It committed all parties to cooperate with and provide unimpeded access to the International War Crimes Tribunal, and other human rights monitoring organizations.

Annex 6 of the accords, an agreement on human rights, repeated the fundamental rights and freedoms of all persons in Bosnia outlined in the constitution. It established a human rights commission to address alleged or apparent violations of human rights and cases of discrimination. The commission is comprised of two parts: an independent human rights ombudsman and a human rights chamber. The ombudsman may receive applications concerning human rights violations, investigate claims, refer cases to the human rights chamber, and/or issue findings. The human rights chamber may also receive applications concerning human rights violations, conduct proceedings to consider the applications, and adjudicate. The chamber may decide upon steps to remedy human rights violations, and provisional measures to address the situation. All persons in Bosnia and Herzegovina have the right to submit applications to the commission concerning alleged human rights violations.

The human rights situation in Bosnia was also expected to be enhanced by the release of prisoners of war and detained civilians and by the holding of free elections, both addressed in other sections of this report.

In spite of the extensive human rights framework established by the peace agreement, the human rights record in Bosnia has not been a positive one by most accounts. Two years since Dayton, the obligations on human rights under the peace agreement remain unmet, according to the High Representative. Violations in the form of arbitrary arrests, harassment of ethnic minority groups, including forced evictions and destruction of homes, denial of freedom of movement, and discrimination practices, persist. These practices, and the lack of response to them by local police authorities, have contributed to the trend toward ethnic separation. The police themselves have accounted for many of the reported human rights abuses. This fact led the PIC in late 1996 to call for the U.N. civil police to investigate human rights abuses by the local police. The activities of the IPTF and SFOR in

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<sup>36</sup>Prepared by (name redacted).

removing illegal checkpoints and reducing the number of permitted checkpoints have improved freedom of movement for Bosnia's citizens.

**Human Rights Commission and Other International Agencies' Roles.** As described above, the peace agreement created a human rights commission to assist with human rights issues. The human rights ombudsman, not a citizen of Bosnia-Herzegovina or its neighboring states, serves a five-year term. On December 21, 1995, the OSCE chairman-in-office appointed Gret Haller of Switzerland to be human rights ombudsman. The second half of the commission, the 14-member human rights chamber, is composed of four members from the Bosnian federation, two members from the Bosnian Serb Republic, and the remainder appointed by the Council of Europe. The chamber shall normally sit in panels of seven, with two members from the Federation, one from the Bosnian Serb Republic, and four non-citizens of Bosnia.

At the London conference on December 8-9, 1995, participating countries confirmed the importance with which they considered the establishment of human rights institutions as outlined in the peace agreement. The London conference urged the Bosnian parties to adhere to their commitments to the highest level of internationally recognized human rights. The office of the High Representative (Carl Bildt) established a Human Rights Task Force to coordinate international civilian human rights efforts in Bosnia. Subcommittees of the Human Rights Task Force was formed on the subjects of property, detention issues, legal assistance, and public information efforts.

The U.N. Commission on Human Rights, the OSCE, and the U.N. High Commissioner for Human Rights are requested by the peace agreement to monitor closely the human rights situation in Bosnia and Herzegovina, and are invited to open local offices and missions in Bosnia for this purpose. Elisabeth Rehn (Finland) continues to act as U.N. human rights rapporteur for the U.N. Commission on Human Rights, and has conducted human rights mission in the former Yugoslavia. In January, the High Representative formed a Human Rights Coordination Center to serve as a central point for the human rights activities of the various involved institutions.

#### **Status of Implementation and Future Milestones.**

- The 14-person human rights chamber was to be filled within ninety days of signature of the peace agreement. The human rights commission, comprising the office of the ombudsman and the human rights chamber, was formally inaugurated on March 27, 1996, in Sarajevo. The Ombudsman's office opened in Banja Luka in July. By October 1997, the Ombudsman had opened over 2,000 provisional cases and registered over 1,000 cases. The human rights chamber had registered 59 cases and has made final decisions on two cases.
- The Peace Implementation Council in June 1996 deemed that implementation by the Bosnian parties of Annex 6 commitments on human rights has been inadequate. It expressed concern about the parties' failure to adopt amnesty



laws, bring property legislation into conformity with the right of return, and to bring about freedom of movement.

- The Council of Europe Committee of Ministers appointed Michèle Picard as the President of the Human Rights Chamber for Bosnia on November 4, 1997.
- Five years after coming into force, responsibility for the human rights commission is to turn over to the Bosnian government, unless the parties do not agree, in which case the commission will remain as is.

## **Outlook Through June 1998 and Beyond**

Most observers agree that, beginning in mid-1997, peace implementation efforts have accelerated. After the first post-Dayton year, notwithstanding IFOR's successes, Bosnia appeared nearly as disintegrated as at the end of the war. By the end of 1997, in contrast, many joint political institutions had been created, larger numbers of refugees had returned, and the war crimes tribunal had a new lease on life with the capture or surrender of some indictees. It was doubtful to many, however, whether the gains of peace could endure the withdrawal of SFOR if no successor force took its place.

On December 18, 1997, President Clinton announced his support in principle for U.S. participation in a post-SFOR force after June 1998, reversing the Administration's prior position that U.S. troops would leave Bosnia at the end of SFOR's mandate. President Clinton stated that Bosnia still needed a "safety net" that the international community could provide and that an international military presence would assist. NATO is expected to decide on a successor force by March 1. The Administration has continued to emphasize the importance of a sustained and intensified civilian and economic engagement as the key to reaching a sustainable peace. The likely maintenance of a military force beyond June 1998, however, has arguably diminished the sense of urgency to accelerate civilian implementation that SFOR's planned withdrawal had created.

A new element to the post-SFOR force is that, by the President's December 1997 statement, its mission is to be tied to specific benchmarks, not a timetable, as IFOR and SFOR were. What these specific benchmarks or criteria are, and how to establish ways to measure when they are met, are among the questions currently being examined by NATO and its member states. Many observers doubt that the post-SFOR force will explicitly take on a larger role in civilian implementation. On the other hand, other observers contend that NATO will be in Bosnia for an extended deployment, if the force does not actively assist in achieving the established benchmarks.

In his December statement, President Clinton outlined five priority areas in civilian efforts. The first priority is to expand economic growth and opportunity. The second is to reform and retrain the police. The third is to restructure the state-run media and establish alternative independent media. Fourth is to help more

refugees and displaced persons return home. Fifth is to bring indicted war criminals to justice in order to remove their influence as obstacles to stability and to make them answerable for their crimes. During his visit to Bosnia on December 22, President Clinton furthermore outlined to members of the Bosnian leadership areas where their commitment to the peace agreement was lacking.

As NATO most likely continues to remain engaged with a military operation in Bosnia, with no precise exit date expected to be assigned to the post-SFOR force, greater attention is likely to be paid to the criteria that may constitute the overall final objective for the international community, i.e., a sustainable peace in Bosnia without the need for an outside military presence. In the near future, NATO and the international community are likely to focus on the range of criteria that can be identified, measurements that can gauge how they can be achieved, the consequences that may derive from them, and the role, if any, of the post-SFOR in meeting these essentially civilian criteria.

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