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## Executive Summary

Bosnia and Herzegovina (BaH) is no longer high on the international political agenda and no longer enjoys the special position that it held during and immediately after the war in the Balkans in the early 1990s. As a result, international political and financial support is declining. The present US government in particular has been outspoken on its desire to exit from the Balkans, and other governments are also becoming impatient. On Paddy Ashdown's arrival, it was widely speculated that he would be the last or penultimate High Representative. The combined budgets of the Office of the High Representative (OHR) and the Organisation for Security and Cooperation in Europe (OSCE) are decreasing and the United Nations High Commissioner for Refugees (UNHCR) and United Nations Mission in Bosnia and Herzegovina (UNMIBH) are leaving the country altogether by the end of 2002. At the same time, it is clear that BaH is not yet a sustainable state. Ground previously gained would be lost if key organisations such as OSCE exit in the short and even medium term.

Over the years the OSCE Mission has proved its merits. The way in which it has interpreted its mandate has changed with the environment in which it has operated, its extended field presence enables the Organisation to follow-up central policy decisions locally, while it has remained relatively inexpensive, especially compared to UNMIBH. Because of its long presence, the OSCE Mission has had the opportunity to develop programmes that could not have been developed by a short-term presence or by non-resident experts.

Nevertheless, it is time for the Mission to start defining end-states and set realistic timeframes for these. End-states, rather than fixed end-dates should be defined, making sure that non-cooperative local governments cannot 'wait out' the OSCE. The inbound government should be closely involved in this process to ensure a feeling of ownership when they take over activities. In designing the exit strategy, the Mission needs to be realistic; it will not be possible to achieve utopian goals. On its part, the Permanent Council should allow the OSCE Mission to finish its mandate properly and leave behind a sustainable situation in those areas where it has responsibilities. In this regard, an abrupt shift in funding from BaH to Central Asia would not be advisable. After reaching its main objectives, a smaller Mission is to remain in BaH for the foreseeable future in order to guard ground previously gained.

The first step in defining an exit strategy is to make sure that a capable and reliable domestic partner can take over obligations. At present this partner often does not exist. This has a political and technical dimension: politically, many of the aims of the OSCE run counter to those of the main domestic political forces; and on a technical level, insufficient local capacity exists to take over.<sup>1</sup> A comprehensive capacity-building strategy needs to be urgently developed with the new government to ensure that the local authorities are able to take over OSCE obligations in the future. On the political side, it will be important to maintain pressure on the newly elected government to press forward with the reforms.

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<sup>1</sup> The difficulties in handing over the elections illustrates the point.

Meanwhile, other international organisations (IOs) are increasing or enhancing their roles in BaH, such as the Council of Europe (CoE),<sup>2</sup> the European Union (EU)<sup>3</sup> and the North Atlantic Treaty Organisation (NATO).<sup>4</sup> These organisations are active in areas in which the OSCE has a mandate and activities. Sometimes this leads to conflict, as the recent discussion on the policing Mission demonstrated. Rather than waiting for more friction to develop, it is high time to engage in a serious debate with these organisations to ensure that the OSCE exit strategy will match BaH's entry strategy in the CoE, NATO PfP and - possibly in the long term - the EU.

Over time the OSCE has by necessity moved beyond the General Framework Agreement for Peace (GFAP) in substance and implementation methodology. Whereas it envisaged monitoring GFAP's implementation, it took on an implementing role. Moreover, together with the rest of the international community (IC) it moved beyond the initial state-building objectives, realising that the state as described in GFAP is cumbersome and unsustainable. The international effort is moving increasingly in the direction of central state-building, more than was originally envisaged. Moreover, the OSCE has been focusing attention over the years on bringing about a political change. But this strategy has not yielded the results hoped for; the main nationalist parties declared victory once again after the 5 October 2002 elections. As the mandate of those elected will be four years, it will have to deal seriously with those elected. The OSCE Mission's Democratisation Department's current focus on governance programmes, targeted at institutional capacity-building, is crucial in this respect. Instead of trying to bring into power new parties that are more likely to share OSCE values, the strategy will have to focus on working with whoever is elected and convincing or forcing them into cooperation.

To make more efficient use of the remaining resources, IOs have been 'streamlined', realigning their responsibilities. This had a significant impact on OSCE activities in the field, particularly in the areas of human rights, education and security cooperation, in which it is now taking a leading role.

The Elections Department closes at the end of 2002, but without the OSCE's strong support behind the scenes, the local authorities would not have been able to organise the recent elections. The Elections Commission (EC) was appointed by the OHR; key staff of the EC Secretariat are seconded OSCE national staff and a large proportion of the elections are funded by international donors. A serious dialogue with the inbound government needs to be initiated on how to make the organisation of elections a truly domestic affair in the future.

In the field of human rights, the traditional focus of the Human Rights Department has been on minority return, and this will continue to be the case. Whereas it is currently focusing on property implementation issues, it will become more involved in the sustainability of return. With the OHR closing its Human Rights Department and the UNHCR leaving the country altogether by the end of 2002, the OSCE will be the prime human rights actor in the field.

This sustainability of return is also an area from which the recently established Education Department is drawing its mandate. Although its own work will focus on the issue of access to education of particularly minority returnees, the Department will also coordinate the work of the other actors active in the field of education. If this new task is approved by the OSCE's Permanent Council (PC), the OSCE Mission will take upon itself a new long-term obligation that will take significant

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<sup>2</sup> To which BaH recently joined as a member.

<sup>3</sup> Which has laid out a 'Road Map' and appointed the High Representative as a double-hatted EU representative.

<sup>4</sup> Which is discussing Bosnia and Herzegovina's Partnership for Peace membership. The NATO troop size, on the other hand, is decreasing.

effort over a period of five to ten years. Also in the field of Security Cooperation, new tasks are assumed as the OHR is handing over its military cell to the OSCE. It will continue to work on downsizing the military forces, and bringing them under a centralised, civil control.

In the last phase of its large-scale presence, the OSCE Mission should operate as efficiently as possible and make sure that all the valuable lessons learned are well documented on a central level and are learned by the domestic authorities. The secondment system and absence of a proper project cycle management and evaluation system severely hampers the ability of the Mission for institutional learning and the development of institutional memory. The organisation should make a serious start in developing a central knowledge base in Vienna or Warsaw (as far as the human dimension is concerned), a central (former) staff database in Vienna and a central digitised document database. Meanwhile, headway should be made in the development of the OSCE's human resource policy, which remains one of its weakest points. The rapid growth of the OSCE has caused the activities to grow faster than its management and policy planning structures, which should be strengthened. As a result of this rapid growth, the Mission pursues long-term objectives such as democratisation and educational reform, with short-term tools such as six-month secondment contracts and a one-year strategy and budget. This toolkit should be adapted to meet the needs of the Mission better.



# Recommendations

## Main Recommendations

- Request the Mission to identify realistic and measurable final outcomes that the Mission intends to achieve in each of its sectors. Set preliminary timeframes should be defined for each of them, realistic work plans developed and a strategy included about how to start handing over activities to local government early in the process. In the exit strategy, end-states rather than fixed deadlines should be decisive, otherwise obstructive domestic authorities can employ a stalling technique, waiting out the departure of the Mission. A memorandum of understanding (MoU) with the government should be signed, outlining the responsibilities of both the OSCE and domestic authorities;
- Urge the Mission to develop special training for personnel from domestic institutions to which the OSCE will be required to hand over activities in the future;
- Retain Mandate flexibility but introduce a stronger central policy planning and evaluation unit in the Mission to lay out a comprehensive, long-term vision. This unit could act as a ‘devil’s advocate’, stimulating policy debate;
- The OSCE’s Office for Democratic Institutions and Human Rights (ODIHR), in the human dimension, or the Conflict Prevention Centre (CPC) should be further strengthened to become true knowledge bases, collecting ‘lessons learned’ by various Missions. If strengthened they will be better able to coordinate Mission activities in the south-east European Region and to give input to the development of Mission programmes. The implementation of activities should be left to the BaH Mission itself. If this is not accomplished, valuable lessons learned by the Mission will continue to be lost.

## Mission Activities

- *Elections*: outline a solution for the currently unsustainable situation in the Election Commission Secretariat;
- *Democratisation*: expand the capacity-building activities of the Democratisation Department and link these with programmes to be developed by the training section for domestic authorities, to which the OSCE is handing over activities;
- *Human Rights*: exert maximum pressure on the Croatian government to improve its Property Law and insist on better field implementation;
- *Education*: if the Permanent Council agrees to the proposed activities of the Education Department, further the understanding that it has entered into a long-term obligation (five to ten years) and support the planned extensive field network of the Department by seconding

qualified experts who should work together with existing experts of other IOs, such as the CoE.

### **Organisation and Management**

- Push for swift implementation of the ‘Management Agenda’, drafted by the OSCE Secretariat in Vienna;
- Assist the Mission in setting up a good tracking mechanism for the task forces in which it is involved, as envisaged under the streamlining process;
- Encourage external research on OSCE operations. The existing ‘Research in Residence Programme’ of the OSCE should be further expanded. It should be better advertised and financial resources made available to promote participation by young researchers from BaH;
- Introduce a central digital document management system throughout the OSCE, including all Missions;
- Push for the development of a multiple-year strategy and budget plan for the Mission. OSCE budgets should be approved as early as possible before the new budget year;
- A uniform, Logical Framework Approach (LFA) -based project cycle management system needs to be introduced in all Missions and institutions. Senior staff should be trained in its usage. In the earlier suggested policy planning and evaluation unit of the Mission, additional administrative/management capacity needs to be made available for this;

### **Human Resource Policy**

- Extend the general OSCE secondment period to one year instead of six months and have the extension of contracts decided upon well in advance (at least two months), to enable sufficient time to find replacements. The occurrence of gaps between outgoing and incoming staff is very disruptive for the continuity of the Mission’s work. Instead, a short overlap in contract periods should be strived for, to enable proper handover;
- The recruitment process should be further depoliticised to higher positions. If this is unfeasible, the level just below this should be filled with high-level professionals to support them managerially;
- An effective system of appraisals for all staff, based on rigorous standards, should be applied. Results should be logged in a central staff database in Vienna. Former OSCE staff should be invited back to Missions for positions in which they hold expertise;
- International positions should be more widely advertised through, for example, *The Economist*. A vacancy email list should be established on which all present and former OSCE Mission staff will be placed;
- While regional balance is important, the prime selection criterion should be the competence of the individual candidate. Preference can only be given for gender balance and geographical distribution if candidates are equally competent;
- Uniform staff regulations need to be urgently adopted for all Missions, including a section on labour conflict resolution procedures and a uniform debriefing procedure. A truly independent body that will deal with labour conflicts should be established;



- Encourage further nationalising positions in the Mission and establish a serious dialogue with relevant domestic authorities about recruiting qualified national staff.

### **Coordination and Role of Other OSCE Bodies**

- *Secretariat, Secretary-General*: the OSCE Secretariat needs to be strengthened to be better able to logistically, administratively, management- and possibly content-wise assist the Chairman-in-Office (CiO) and provide better backup to the Missions;
- *Conflict Prevention Centre (CPC)*: the relation with the Mission needs to be improved. At present strong tension exists between the two. Relations between the CPC and ODIHR with regard to building a central knowledge base should be clarified;
- *High Commissioner on National Minorities (HCNM) and Special Representatives (SRs)*: with the exception of the existing SR for Security Cooperation, involvement of the HCNM and Special Representatives in BaH is not useful given the size of the Mission and presence of other IOs in the field;
- *Cooperation with the Council of Europe, European Union and NATO*: the CiO, together with the Section for External Cooperation and the Office of the Secretary-General, should initiate a discussion with the EU, CoE and NATO on a central level to discuss how the OSCE can assist states where it has Missions to meet the criteria for CoE, EU and NATO PfP membership. This should be concretely followed up in the field. It should be noted, however, that the OSCE should not be reduced to a service organisation of the above-mentioned three IOs and that Russian sensitivities in this regard should be taken seriously.



## Preface

This research paper evaluates the OSCE Mission in BaH in the framework of a wider study entitled 'Improving the Effectiveness of OSCE Missions', conducted by the Netherlands Institute of International Relations 'Clingendael', requested by the Netherlands Ministry of Foreign Affairs.<sup>5</sup>

The objective of this project is to identify policy options for the incoming OSCE Chairmanship-in-Office of the Netherlands (in 2003) for improving the effectiveness of long-term Missions with regard to conflict prevention, conflict management and post-conflict rehabilitation in the OSCE area.

In the past decade, the OSCE has taken an increasingly proactive and visible role in conflict prevention, crisis management and post-conflict reconstruction. As one of the main implementing agencies of the Dayton Accords, the OSCE Mission in BaH is tasked with promoting democratic values, monitoring and developing human rights, organising and supervising elections, implementing arms control and security-building measures and coordinating the international reform effort in education.

The performance of the Mission can best be measured by the way that it has succeeded in assisting the implementation of those provisions of the Dayton Peace Agreement for which it was mandated. In doing so, we should take into consideration the social-political environment in which the Mission has had to work.

As part of this research project, three visits totalling four weeks were undertaken to BaH as well as a three-day visit to Vienna and a short visit to ODIHR in Warsaw. In BaH interviews with OSCE Mission staff, Bosnian politicians, representatives from other international organisations and civil society were held. In Vienna, representatives of the Secretariat and CPC, as well as delegations, were visited. In total more than 70 interviews were held.

This paper will examine the work of the main five Departments of the Mission: Elections, Human Rights, Democratisation, Regional Stabilisation and Education.<sup>6</sup> In discussing the various Departments, the paper does not attempt to be exhaustive, but rather to focus on certain central activities and to draw key lessons from these. First, however, we will take a closer look at the social-political context in which the Mission has to operate, as well as at the history of the Mission, its mandate and structure.

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<sup>5</sup> The author has been working extensively on the Balkans since 1994. He is Chairman of the Amsterdam-based NGO Academic Training Association, which has set up education reform and conflict resolution-related programmes in BaH and Kosovo. During recent years he has also been teaching at the University of Amsterdam (Balkan studies) and has published various articles. He has also been involved in setting up a three-year post-conflict rehabilitation and reconciliation project in Mitrovica, Kosovo.

<sup>6</sup> In 2001 the Political and Media Departments were closed, and to limit the scope of this research project, they have been excluded from the study.



## **Part I: Social-Political and Security Context**

Bosnia and Herzegovina (BaH) is situated in the centre of the former Yugoslav territory. Croatia borders it to the west, Serbia to the east and Montenegro to the south-east. Its population of approximately four million is traditionally ethnically mixed with 44 per cent Bosnian Muslims, 31 per cent Bosnian Serbs, 17 per cent Bosnian Croats and 8 per cent others (1991 census).

### **A: The Origins and Dynamics of the Conflict**

The conflict in Bosnia should be understood as an escalated political conflict between nationalist elites drawing upon popular fears based on an unresolved past. As communism never dealt with the atrocities of the Second World War, but rather repressed a debate on them, this left ample room for abuse by the new ethnic elites that rose at the end of the 1980s. Their rise was facilitated by a strong downturn in the economy.

In November 1990, the first post-communist elections were held in Bosnia and Herzegovina. Although all established in the year of the elections, the three main ethnic nationalist parties (SDA, SDS and HDZ) representing the three main ethnic groups (Bosnian Muslims, Bosnian Serbs and Bosnian Croats, respectively) attained an overwhelming victory. All levels of government in virtually all locations were divided up between the three parties. Friction between them started to develop from the very beginning.

The new ethnic-nationalist elite kept escalating ethnic tensions, using mass media to carry their message, while gaining support from various groups in society such as religious leaders and intellectuals. As a result, three totally independent understandings of the conflict developed. Meanwhile, the institutionalised nationalism of Tudjman and Milosevic in neighbouring Croatia and Serbia further encouraged ethnic nationalist politicians within BaH. In March 1991, Milosevic and Tudjman met secretly in the town of Karadjordjevo, where they discussed the partitioning of the country. Under this external and internal pressure Bosnia and Herzegovina gravitated to war.

Bosnia and Herzegovina was recognised as a sovereign state by the EU and the United States on 6 and 7 April 1992 respectively, and the Sarajevo government was recognised as its legitimate representative. It was in this month that the SDS leadership, supported by the Yugoslav National Army (JNA), in conjunction with the Serbian regime, started fighting in Bosnia and Herzegovina on a large scale.

Peace negotiations started in Dayton, the United States and on 21 November 1995 a General Framework Agreement for peace (GFAP) was announced, and subsequently signed in Paris on 14 December 2002. The so-called Dayton Agreement recognised Bosnia and Herzegovina as a sovereign state but divided it into two entities: the Republic of Srpska (RS), with 49 per cent of the territory; and the Bosniac-Croat Federation with 51 per cent of Bosnian and Herzegovinian territory.

The war created enormous changes in population composition. The Bosniac (Bosnian Muslim) population on the territory of the post-war Federation increased from 52.09 per cent to 72.61 per cent between 1991 and 1997. A corresponding drop in the Serb population from 17.62 per cent to just 2.32

per cent in the same period was recorded. The change was even more striking in what became the RS, where the Serb majority jumped from 54.3 per cent in 1991 to 96.79 per cent in 1997.<sup>7</sup>

The various ethnic groups disagree strongly over the desired political future of Bosnia and Herzegovina. Recent polls conducted by the American-based National Democratic Institute (NDI) lay bare the diverging political aims of the three main ethnic groups. While Bosnian Muslims see their county as a unitary state, the majority of Croats back the creation of a third, separate Bosnian Croat entity. Serbs, meanwhile, either back independence for Republika Srpska or want it to be annexed to Serbia. This popular attitude is coupled with statements by members of the political elite that point in the same direction.<sup>8</sup> In the run-up to the 5 October 2002 elections, strong ethnic rhetoric was used once more on all sides. The economy was left in tatters at the end of the war and has not recovered. Economic growth relies strongly on international aid and loans. Over 60 per cent of the population lives below the poverty line.<sup>9</sup> The wider unemployment rate is estimated at 56.5 per cent by the United Nations Development Programme (UNDP). With the ongoing political and institutional instability, foreign investors are unlikely to provide capital. The BaH government is still highly (ethnically) divided, corruption is widespread and the legal system is politicised and inefficient.

## **B: Current Environment**

Obstacles for the peace process are manifold. This paper will focus on relevant issues for the various Departments of the OSCE Mission, being:

- The electoral process and the political environment resulting from it;
- The burdensome governance system;
- The general human rights situation, focusing on a recent ruling of the Constitutional Court and return of refugees and internally displaced persons (IDPs);
- Education;
- Military and regional stabilisation issues.

## **C: Elections**

In the first post-Dayton elections of 1996, the main three nationalist parties again overwhelmingly won and continued to wage war by political means. To date, the deliberate policy of the OSCE to hold elections frequently to accelerate the erosion of support for hard-line nationalist politicians has had

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<sup>7</sup> Constituent Peoples' Decision of the BiH Constitutional Court, Paragraph 86, In Official Gazette of BiH, Thursday, September 14, 2000. The Court noted that the effects of 'ethnic cleansing' were even more marked in the eastern RS, where Bosniac pluralities or majorities before the war were transformed into Serb homogeneity.

<sup>8</sup> During 2001, the HDZ made attempts to create a third Croatian entity in BaH, supported by high-level Roman Catholic Church officials. At the same time, the Prime Minister of the RS, Mladen Ivanic, threatened to hold a referendum on the possible secession of RS. On the side of the Bosniacs, SBaH party leader Silajdjiz has been pleading for the abolishment of the entities. Such serious attacks on the constitutional order of BaH demonstrate that the country has far from stabilised.

<sup>9</sup> Helsinki Committee for Human Rights in Bosnia and Herzegovina, Annual Report 2001, p. 76.

limited effect.<sup>10</sup> It took until the municipal and general elections of 2000 before one of the three main ethnic parties seriously lost support.<sup>11</sup>

The November 2000 elections brought about a Coalition government in the Federation called the ‘Alliance for Change’. This Alliance was put together under heavy international pressure from the United States and the United Kingdom in particular, and assumed government in early 2001. The Alliance was supported by three of the more moderate RS parties in the Council of Ministers. It was hailed as the first post-war non-nationalist government. Nationalist parties were obviously not very happy with the international political bias, but the nationalist parties continued to wield very strong support, especially on the local level.

The recent general elections of 5 October 2002 were crucial in two respects: first, they were the first elections organised by local authorities; second, they resulted in four-year mandates for the first time, in contrast with the two-year mandates to date.

The results of these elections were disappointing, as HDZ and SDS remained the largest Croat and Serbian parties (despite small losses), while the Muslim nationalist SDA seriously regained ground previously lost to the multi-ethnic SDP and once again become the largest Muslim-majority party. Turnout was poor at 55 per cent.

Analysts have pointed to the high expectations that the Alliance raised in its 2000 pre-election campaign, which stood in bleak contrast with results achieved during its two-year rule. This discrepancy is a good explanation for their waning support. Worryingly, the Alliance seems to have not only damaged the parties involved but also the concept of multi-ethnic government in BaH as a whole.

#### **D: Governance System**

Bosnia and Herzegovina is a semi-protectorate. The international community, led by the Office of the High Representative (OHR) has widespread powers to impose legislation, remove officials, etc. This issue will be discussed later, but this section will be limited to the domestic cumbersome governance structures.

In order to accommodate the three main ethnic parties, the Dayton Peace Agreement laid out a complex and extensive governance system. Although a central state apparatus was established, real power was vested in the entities. Moreover, the RS and Federation chose different political models to govern their respective territories.

The RS has the most straightforward model, due to its ethnic and political homogeneity. In this entity only a municipal and central level (one-chamber parliament and entity presidency) exists. The Federation system is more complex because of its internal divide between Muslims and Croats. Besides a municipal level, the Federation established Cantons (provinces), a *two*-chamber parliament and an entity presidency. These Cantons enabled SDA and HDZ to divide the territory between them. The country is thus *de facto* divided into three.

For the electorate, the complexity of the system was confusing. Whereas in the 1990 elections, they only had to vote for three bodies, they now had to cast five votes and an additional five indirect

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<sup>10</sup> Report on the Conformity of the Legal Order of Bosnia and Herzegovina with the Council of Europe Standards, AS/But/BiH (1999) 1 rev. Strasbourg, 7 January 1999, p. 39.

<sup>11</sup> It was the Social Democratic Party (SDP) that obtained a victory over the SDA. This victory, however, was reversed in the October 2002 elections.

elections had to take place. Three joined bodies were elected as well as an additional five Federation and three RS bodies. With the recent constitutional reforms, an extra RS body, which is indirectly elected, has been created: the Council of People.

The governance system moreover continues to be plagued by a high level of corruption and lack of knowledge in modern management techniques.

## **E: Human Rights**

Ironically, on paper BaH has one of the best human rights protection systems in the world. Under the Dayton Peace Agreement<sup>12</sup> it is stated that: ‘The parties shall secure to all persons within their jurisdiction the highest level of internationally recognised human rights and fundamental freedoms, including the rights and freedoms provided in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols and the other international agreements listed in the Appendix to this Annexe’. This list in fact includes sixteen international legal documents.<sup>13</sup> The reality, however, is rather grim, although much has improved since the end of the war.

In 2001, the juridical and police authorities in both the RS and the Federation were still largely under the control of the nationalist parties SDS, HDZ and SDA.<sup>14</sup> Moreover, these are highly ethnically homogeneous. In their 2000 ruling on the Constituent People case, the Constitutional Court noted that 97.6 per cent of judges and prosecutors and 93.7 per cent of police officers in the RS in 1999 were Serbs, whereas in the Federation there was an analogous predominance by Bosnian Muslims and Croats.

Discrimination and lack of minority protection and abuse of authority were widespread in the police force throughout BaH’s territory. Cooperation with The Hague’s war crimes tribunal has been slowly improving but is still unsatisfactory, with major war criminals such as Radovan Karadzic still on the loose. Improvement, however, can be observed. For example in the field of the recruitment of minority police officers, the UNMIBH reports that as of March 2002 there are 307 non-Serb officers in the RS and 633 Serbs and ‘Others’ in the Federation, while the Brcko district police force is fully integrated.<sup>15</sup>

The media in the different areas are still issuing partisan and biased reports and using intolerant language. Editorial boards and journalists continued to face pressure, threats and physical attacks.

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<sup>12</sup> Annexe VI, article 1.

<sup>13</sup> These documents are: 1948 Convention on the Prevention and Punishment of the Crime of Genocide; 1949 Geneva Conventions I-IV on the Protection of the Victims of War and the 1977 Geneva Protocols I-II thereto; 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, and the Protocols thereto; 1951 Convention relating to the Status of Refugees and the 1966 Protocol thereto; 1957 Convention on the Nationality of Married Women; 1961 Agreement on the Reduction of Statelessness; 1965 International Convention on the Elimination of all Forms of Racial Discrimination; 1966 International Covenant on Civil and Political Rights and the 1966 and 1989 Optional Protocols thereto; 1966 Covenant on Economic, Social and Cultural Rights; 1979 Convention on the Elimination of all forms of Discrimination against Women; 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; 1987 European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment; 1989 Convention on the Rights of the Child; 1990 Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; 1992 European Charter for Regional or Minority Languages; 1994 Framework Convention for the Protection of National Minorities.

<sup>14</sup> Helsinki Committee for Human Rights in Bosnia and Herzegovina, Annual Report 2001, p. 71.

<sup>15</sup> European Stability Initiative (ESI), Imposing Institutional Reform: The Case for Ownership: A Discussion Paper, Berlin-Sarajevo, 20 March 2002, p. 7.



Many media outlets are still under the influence or even control of political parties. The Helsinki Committee for Human Rights in its *Annual Report 2001* concludes that ‘The majority of the media in the RS were under the control of local authorities or political parties’.

### *Constitutional Reform*

The most significant recent political/human rights achievement was related to a Constitutional Court decision regarding the constitutionality of the main three nations throughout the territory of BaH. In February 1998, Alija Izetbegovic, then chairman of the BaH presidency, initiated proceedings with the BaH Constitutional Court to determine whether the entity Constitutions were consistent with the BaH Constitution. In the court decisions of 30 June and 1 July 2000, it found several elements of the entity Constitutions to be unconstitutional.<sup>16</sup> For example, with regard to the RS Constitution, the Court found the wording ‘State of the Serb people’ to be unconstitutional. Similarly, the court found the wording ‘Bosnians and Croats as constituent people, along with Others’ to be unconstitutional in the Federation.

The essence of the ruling was that the entity Constitutions had to be altered so that Serbs in the Federation and Bosnian Muslims and Croats in RS are afforded equal rights as to the protection of their vital national interests and their representation in government.

In January 2001, the High Representative established Constitutional Commissions in both entities, to develop proposals. Thereafter, the issue remained on the political agenda, albeit rather dormant until March 2002. To add political pressure, the Council of Europe had earlier added implementation of the Court’s decisions on their post-accession requirements.<sup>17</sup> After increasing international pressure, the leaders of the eight main political parties in BaH met in Mrakovica on 27 March 2002 to discuss the constitutional reforms. This meeting resulted in the ‘Mrakovica Agreement’, which was welcomed by the OHR. The discussion came at a difficult time for the parties, however, which started to gear up for the important 5 October 2002 general elections. Finding compromises on such a delicate issue was therefore unlikely.

On 4 April 2002, the RS National Assembly adopted a reform package deemed insufficient by Federation parties and the OHR, as it did not meet the standards of the Mrakovica Agreement. In late April 2002 the High Representative imposed amendments to the entity Constitutions and the elections law, bringing them in line with the Constitutional Court ruling.

Although the reform package imposed by the High Representative is too extensive to be discussed in full, two elements deserve attention. They encompass the establishment of a Council of People in the RS, which through the use of a vital interest clause can wield substantive influence. In effect, this will enable each ethnic group to block legislation that it deems contrary to its vital interests.

Furthermore, it was determined that constituent peoples and ‘Others’ shall be proportionally represented in public institutions according to the 1991 census until the return-related annexe of the Dayton Peace Agreement is fully implemented.<sup>18</sup> This would present enormous job opportunities for

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<sup>16</sup> The Court decided on the ‘constituent peoples’ provisions by a five to four majority, with the two Croat and two Serb justices dissenting. The three international and two Bosniac judges formed the five-person majority.

<sup>17</sup> Under the post-accession criteria of the Council of Europe, BaH did commit itself ‘to adopt and to implement, within one year after its accession, constitutional and legislative amendments necessary to comply with the decision of the Constitutional Court on the “constituent peoples of Bosnia and Herzegovina” of June-July 2000’.

<sup>18</sup> In the RS these are: the ministries of the RS government, municipal governments, District Courts in Republika Srpska and Municipal Courts in Republika Srpska. In the Federation these are: the ministries of the government

minority returnees. In fact, these changes could pave the way for an overhaul of the present system. However, critics<sup>19</sup> of the agreement have expressed some objections:

- The governance system, which was already extremely complex as outlined earlier in this report, has been further complicated and might become unmanageable;
- The system, which was already economically burdensome, has become even more so, and might prove financially unsustainable;
- By making ethnicity even more important, the system might very well strengthen the current ethnical logic in government;
- It is highly doubtful whether the imposed legal reform package will be implemented by the new government.

#### *Return of Refugees and Internally Displaced Persons (IDPs)*

‘The return of people and property, and their reception by others remained the key human rights issues in BaH’, as the Bosnian Helsinki Committee noted in its *Annual Report 2001*.<sup>20</sup> During the war 2.3 million people were displaced from their homes and became either refugees (i.e. resident outside of BaH), or Internally Displaced Persons (IDPs). Between 1 January 1996 and 1 March 2002, 390,000 Refugees and 444,000 IDPs have returned home, yet only a small percentage of these were so-called minority returns.<sup>21</sup> Minority returns means the return of members of an ethnic group to an area in which their group forms a minority, such as the return of a Bosnian Muslim to the Serbian majority town of Banja Luka, or the return of a Bosnian Serb to the majority Muslim town of Sarajevo. Each of the wartime regimes allocated abandoned properties to members of their own ethnic group and established complex legal and administrative barriers to return, designed to make separation of the population irreversible.<sup>22</sup>

In October 1999, the right to property repossession was recognised in entity laws. Implementation of these laws is the responsibility of administrative authorities in over 140 municipalities across the country. From the beginning, these laws were met with obstruction or inaction. Three main obstacles to the full implementation of these laws exist:<sup>23</sup> politicians keep communities separated to consolidate political and economical interests; weak institutional/administrative capacity of the responsible authorities; shortage in housing to create the space necessary to facilitate return.<sup>24</sup> Additionally, much accommodation has been destroyed, so refugees simply cannot return.

Nevertheless, the number of minority returns has significantly increased over recent years, with minority return to the Federation being twice as high as that to the RS.<sup>25</sup> The number of solved claims

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of the Federation of BaH and of Cantonal governments, municipal governments, Cantonal and Municipal Courts in the Federation of Bosnia and Herzegovina.

<sup>19</sup> For example, see a report by the European Stability Initiative (ESI), *Imposing Institutional Reform: The Case for Ownership: A Discussion Paper*, Berlin-Sarajevo, 20 March 2002.

<sup>20</sup> Helsinki Committee for Human Rights in Bosnia and Herzegovina, *Annual Report 2001*, p. 73.

<sup>21</sup> UNHCR Sarajevo, *Returns Summary to BaH from 1 January 1996 to 28 February 2002*.

<sup>22</sup> *Property Law Implementation Plan (PLIP)*, Interagency Framework Document, October 2000.

<sup>23</sup> *Property Law Implementation Plan (PLIP)*, Interagency Framework Document, October 2000, p. 4.

<sup>24</sup> *Property Law Implementation Plan (PLIP)*, Interagency Framework Document, October 2000, p. 12.

<sup>25</sup> For example, in the first six months of 2000, the UNHCR registered 19,751 minority returns, compared to 7,709 during the same period in 1999. This further increased in 2001, when a total of 92,061 minority returns

by refugees and IDPs on properties left behind between 1992 and 1995 has been steadily rising and is currently around 50 per cent.<sup>26</sup> A target has been set for the end of 2003 of 85 per cent. However, now that more and more property is returned, new problems obstructing return arise:

- There is a growing gap between people wishing to return and the possibilities for this group of having their claimed houses reconstructed<sup>27</sup>;
- The sustainability of return is a serious problem.<sup>28</sup> Social and economic conditions for (minority) return are lacking. Many minority returnees only get their property back to sell it subsequently, and remain in a majority area.<sup>29</sup> Agreements have been signed to enable IDPs to return without losing health care insurance or pensions and that allow returnee children to be educated according to the educational programme of the entity from which they returned. However, implementation of these agreements is problematic.

Unfortunately, as the number of returnees increased, so did the number of violent incidents against them. Minority return is still perceived by ethnic nationalist actors as a threat to their rule and political sustainability.

## **F: Regional Stabilisation**

The war in BaH created three separate armed forces: the Bosnian Army (led by the Sarajevo government); the Bosnian Serb Army (guided from Srpska Sarajevo and later Banja Luka); and the Croat Defence Council, guided from Mostar. The Bosnian Serb Army was supported from Belgrade and the Croat Defence Council received support from Zagreb. Additionally all three armies received (in)direct support from various other governments.<sup>30</sup>

No significant military violence has occurred since the conclusion of the GFAP, thanks to the NATO-led SFOR peacekeeping operation. However, the three armed forces were considered a liability to the state rather than serving to protect it. The Bosnian Croat forces were still funded by Zagreb, the RS armed forces by Belgrade. Croatian support was the first to dry up; support from Belgrade arrested more recently, after which 300-500 Serbian officers left the RS and moved to Yugoslavia.

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were registered. See OHR's Reconstruction and Return Task Force (RRTF), *Overview of Facts, Core Tasks and Partners* (updated 1 March 2002).

<sup>26</sup> PLIP, *Statistics of the Property Laws in Bosnia and Herzegovina: Summary Sheet*, Sarajevo, 30 June 2002.

<sup>27</sup> Thousands of claimed houses will again be left destroyed and will not be reconstructed during 2002.

<sup>28</sup> As a UNHCR study on Minority Returnees to the RS concludes: 'the return process constitutes more than the physical act of moving back into a pre-war home. There are numerous obstacles and fears returnees have to overcome and cope with during and after the return process which will determine if their return is sustainable'; see UNHCR Sarajevo, *Returnee Monitoring Study: Minority Return to the Republika Srpska: Bosnia and Herzegovina*, June 2000, p. iv. Primary concerns raised by returning minority communities are (in order of priority): employment, public services, pension and health issues, education, security and agricultural machinery; see UNHCR Sarajevo, *Returnee Monitoring Study: Refugees Repatriating to Tuzla Canton: Bosnia and Herzegovina*, January 2000, p. vii.

<sup>29</sup> No statistics on the sustainability of return exist.

<sup>30</sup> For a detailed and revealing analysis of this international support, see a recent study by Cees Wiebes entitled *Intelligence en de Oorlog in Bosnie, 1992-1995: de Rol van de Inlichtingen- en Veiligheidsdiensten*, Amsterdam: Boom, January 2002.

After Dayton, these three armies had to be partially demobilised and direct influence from the neighbouring countries had to be reduced and made more transparent. Civilian control over the armed forces needed to be established. Another problem is the high cost of the armed forces. In 2000, the Federation spent +/- 10.5 per cent of its budget on the armed forces; the RS spent 6.2 per cent. Although these percentages went down, further reduction is needed. This downsizing of the armed forces is creating a social problem, as demobilised soldiers are faced with unemployment.

Under its post-accession commitments, the CoE<sup>31</sup> is also pressing for the above-mentioned objectives, as does the OHR,<sup>32</sup> NATO and the IMF and World Bank. NATO, through its Partnership for Peace (PfP) membership, is pressuring the partners into accepting a central command for the armed forces, through a so-called Standing Committee on Military Matters (SCMM). Some see this Committee as the backbone of a future national Ministry of Defence, something that is presently not possible due to the limitations of the GFAP and unwillingness of the parties to accept it.

## **G: Education**

‘The IC has failed. Curriculum is a vehicle of hate, whereas it should be a key element in reconciliation. Until we have a unified curriculum, we won’t have real reconciliation’, said a UN official in an interview. The educational system in BaH is problematic. First of all, it is fragmented: the RS and Federation systems are different. Moreover, as with the governance and army structures, there is a separate Bosniac and Croat system in the Federation. This is a result of the Dayton Peace Agreement, in which educational matters were delegated to the entities, and within the Federation to the Cantons. In effect, thirteen educational jurisdictions exist.<sup>33</sup> Secondly, the content of the so-called ‘national subjects’ is totally divided. Language and literature, history, geography, nature and society and religious instruction are very different in Bosniac, Croat and Serb majority areas. Division between new generations of citizens are being fostered in the schools and universities. Schoolbooks encourage intolerance towards the other ethnic groups and promote nationalistic values, instead of civic values. This inhibits reconciliation and the development of a common Bosnian identity. Thirdly, as follows from the last argument, this divided curriculum is obstructing minority return. Serbian returnees do not like to see their children receiving Croatian nationalistic education and vice versa.<sup>34</sup> Finally, the system of education in Bosnia is outdated both in contents of curriculum and teaching methodology.<sup>35</sup> The system of education management and financing is also ready for overhaul. Before

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<sup>31</sup> The following are criteria for CoE membership: to strengthen cooperation between armed forces on the basis of common defence policy; to restructure the armed forces in BaH aiming at compatibility with international standards and procedures, in particular with regard to the principles of democratic control of defence forces and transparency in defence planning and budgeting processes.

<sup>32</sup> The OHR, for example, stated that ‘If BaH is to be ready for further integration into European and Euro-Atlantic structures in the field of security and defence, in particular PfP, a key prerequisite is the state of BaH’s ability to act independently in defence matters as part of the International Community. This requires adequate structures and procedures that the BaH Presidency is currently working on’. See OHR Sarajevo, *Misrepresentation of the High Representative’s Position on Defence Issues*, Friday 16 August 2002.

<sup>33</sup> Federation of BaH, RS, the ten Federation Cantons and Brcko District.

<sup>34</sup> In a study conducted by the UNHCR on minority return, parents stated that they were concerned about the curriculum taught in the RS; see UNHCR Sarajevo, *Returnee Monitoring Study: Minority Return to the Republika Srpska: Bosnia and Herzegovina*, June 2000, p. 27.

<sup>35</sup> For example, the BaH Ministers did sign a letter of intent to sign the European Bologna Declaration, but at present the Higher Education Laws are still far from in line with this Declaration.

the work of the various Departments is examined and we see how the issues mentioned above are handled, the Mission in general will first be analysed.



## Part II: The OSCE Mission in Bosnia and Herzegovina

### A: Background

On 6 April 1992, BaH was recognised as an independent state by the (then) European Community. The next day the US followed suit. Subsequently, on 21 April 1992 Haris Silajdzic, Minister of International Cooperation of BaH, wrote a letter<sup>36</sup> to the Czech and Slovak Chairmen of the (then) CSCE Council of Ministers, requesting acceptance as a participating state. On 30 April 1992, during the tenth meeting of the Committee of Senior Officials (CSO), BaH was accepted as a member.<sup>37</sup>

After the CSCE's Helsinki summit of 1992, and particularly after the Budapest summit of 1994, the CSCE transformed itself from a diplomatic conference into a large-scale operational organisation with extended field activities. In 1994, the total financial resources managed by the OSCE were 17 million euro, an amount that grew to 225 million euro in 2001, an increase of 1,200 per cent. Of the total budget, 85 per cent is spent on field operations and only 4 per cent is allocated to the Secretariat, if their expensive conference services are not taken into account.

The establishment of the Mission to BaH meant a significant expansion of the OSCE as a whole. It marked the beginning of the rapid growth of the organisation, mainly because of the establishment of large-scale Missions in the Balkans (notably Bosnia, Croatia, Kosovo, Macedonia and to a lesser extent Yugoslavia).

This very rapid growth has caused the organisation to grow faster than it could develop efficient and effective management structures to match this. In essence, the OSCE's politically driven rapid and massive increases in field activities without parallel development of the appropriate management structures and regulatory framework brought a number of management problems. These problems apply to both the organisation as a whole, as well as the larger Missions that it has established.

### B: The OSCE Mandate in Bosnia and Herzegovina

Despite the popular belief that the OSCE's role in BaH started after the signing of the Peace Agreement in 1995, the organisation was already active before that time. The CSCE had been closely following the war and discussed the crisis in meetings. On 4 March 1994, the CSO decided to appoint a Human Rights Ombudsman in BaH, financed by the CSCE and appointed by the CSCE Chairman-

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<sup>36</sup> OSCE Document; 10-CSO/Journal no. 1, annexe 3.

<sup>37</sup> Interestingly enough, no official objections against this decision were raised by the Yugoslav delegation, which had not recognised BaH as a state. The day before, the CSO had come to the conclusion that 'the delegation of "Yugoslavia" (...) will not object against the taking of decisions and in particular the admission to the CSCE of other States on the territory of the former SFRY'. This might have been related to the fact that internal discussion on the suspension of the former SFRY had already begun, which would have made the delegation all the more cautious. OSCE Document; 10-CSO, Chairman's Statement, Helsinki 29 April 1992.

in-Office.<sup>38</sup> In support of the Ombudsman, the CSCE decided in June 1994 to establish a Mission to Sarajevo<sup>39</sup> which became operational in October 1994.<sup>40</sup> Despite this early involvement, however, the OSCE's main role did not start until after the signing of the Dayton Peace Agreement.

After the Peace Accords were concluded, the Ministerial Council of the OSCE decided on 8 December 1995 in Budapest that the OSCE Mission in Sarajevo would be expanded and reorganised into a distinct section of the new Mission. Early in 1996 this decision took effect.<sup>41</sup> The decision to enlarge the OSCE's role in BaH and the subsequent elaboration of its mandate were not taken by the OSCE itself, but rather by the American negotiators in Dayton, Ohio. The OSCE was not represented at the negotiation table.

The OSCE mandate cannot be seen in isolation. Under the GFAP it was part of a constellation of various international organisations that were all tasked with monitoring one segment of the Agreement. Other actors include the UNHCR, NATO, UNMIBH, EU, World Bank, IMF and UNDP. The various agencies' tasks often overlap, and in order to assure coordination of efforts, one agency was given the task of overseeing the work of all the others: the Office of the High Representative (OHR), headed by a High Representative.

In order to steer the policy of the OHR and the other international agencies in the field, a Peace Implementation Council (PIC)<sup>42</sup> comprising 55 countries and agencies was established in London on 8-9 December 1995. The subsequently established Steering Board<sup>43</sup> of this PIC is the most influential policy-making body in BaH, steering the activities of all international organisations in the field, including the OSCE.

The members of this Steering Board are Canada, France, Germany, Italy, Japan, Russia, the United Kingdom, United States, the Presidency of the European Union, the European Commission, and the Organisation of the Islamic Conference (OIC). Since the London Conference, the PIC has

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<sup>38</sup> OSCE Document; 25-CSO/Journal no. 3, March 1994.

<sup>39</sup> OSCE Document; Journal no. 23, June 1994.

<sup>40</sup> OSCE Annual Report 1995 on OSCE Activities.

<sup>41</sup> OSCE Annual Report 1996 on OSCE Activities.

<sup>42</sup> The PIC comprises 55 countries and agencies : PIC Members and Participants: Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, China (resigned in May 2000), Croatia, Czech Republic, Denmark, Egypt, Federal Republic of Yugoslavia, Finland, Former Yugoslav Republic of Macedonia, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Jordan, Luxembourg, Malaysia, Morocco, Netherlands, Norway, Oman, Pakistan, Poland, Portugal, Romania, Russian Federation, Saudi Arabia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom and United States of America; the High Representative, Brcko Arbitration Panel (dissolved in 1999 after the Final Award was issued), Council of Europe, European Bank for Reconstruction and Development (EBRD), European Commission, International Committee of the Red Cross (ICRC), International Criminal Tribunal for the former Yugoslavia (ICTY), International Monetary Fund (IMF), North Atlantic Treaty Organisation (NATO), Organisation for Security and Cooperation in Europe (OSCE), United Nations (UN), UN High Commissioner for Human Rights (UNHCHR), UN High Commissioner for Refugees (UNHCR), UN Transitional Administration of Eastern Slavonia (UNTAES; disbanded in January 1998) and World Bank. As well as a fluctuating number of observers: Australia, Central Bank of Bosnia and Herzegovina, European Investment Bank (EIB), Estonia, Holy See, Human Rights Ombudsperson in Bosnia and Herzegovina, Iceland, International Federation of Red Cross and Red Crescent Societies (IFRC), International Mediator for Bosnia and Herzegovina, International Organisation for Migration (IOM), Latvia, Lithuania, New Zealand, Liechtenstein, South Africa and the Special Coordinator of the Stability Pact for South-Eastern Europe.

<sup>43</sup> This Steering Board provides the High Representative with political guidance. In Sarajevo, the High Representative chairs weekly meetings of the Ambassadors to BaH of the Steering Board members. In addition, the Steering Board meets at the level of political directors every four to eight weeks and at the level of Foreign Ministers once a year.



come together at ministerial level five times to review progress in the implementation of the Peace Agreement and to set new priorities and altering mandates for *inter alia* the OSCE.<sup>44</sup>

More recently a new policy coordination and policy-making body has been established under the streamlining effort, the so-called ‘Board of Principles’ (see further in the section on Policy Coordination). Finally, the Head of Mission (HoM) can set strong accents that fall within the mandate, referred to as ‘Mission Priorities’.<sup>45</sup> The Bosnian state has had no significant influence on the OSCE’s activities.

The Mission received three main tasks in BaH, officially recognised by all parties to the conflict in the General Framework Agreement for Peace (GFAP), i.e.:

- Supervising the preparation and conduct of elections;<sup>46</sup>
- Monitoring and reporting on human rights;<sup>47</sup>
- Negotiating and implementing confidence- and security-building measures and arms control.<sup>48</sup>

This mandate thus focuses on the first and third baskets of Helsinki, *inter alia* security policy and the human dimension. The core of the mandate is on the latter. Three of the OSCE Departments that are directly related to the original mandate are the Elections Department, the Human Rights Department and the Security Cooperation Department.

The Mission has changed its interpretation of the mandate over time, as reflected by the establishment of new Departments over the years: the Democratisation Department, the Media Department and very recently the Education Department. The establishment of these first two was justified under the elections mandate. It was argued that if ‘free and fair’ elections were to be organised, instruments were not only needed to hold elections practically, but other activities were to be developed to create better conditions in which they were to take place.

The establishment of an Education Department has been justified as falling under the human rights mandate and assuring the rights of (minority) returnees to education.

A general development in the way that the IC operated after Dayton is that it became more and more involved in the implementation of the Agreement, instead of monitoring how the parties themselves were implementing the Agreement. International organisations, foremost the OHR,<sup>49</sup> were progressively given stronger political powers to force through and implement decisions.

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<sup>44</sup> In June 1996 in Florence; in December 1996 for a second time in London; in December 1997 in Bonn; in December 1998 in Madrid; and in May 2000 in Brussels.

<sup>45</sup> A former Head of the Democratisation Department in this respect observes that; ‘In addition to implementing the strategy and the projects, the Departments had to act upon instructions and requests coming from the HoM. These requests would often provoke sudden changes in the activities and impose even tighter time constraints on the staff. The Department would also have to implement the so-called Mission priorities that could come up during the year’; see Elisabeth Rasmusson, *Democracy in the Making, Lessons Learned from Bosnia and Herzegovina*, Human Rights Report 2/2000 (Oslo: Norwegian Institute of Human Rights, 2000), p. 11.

<sup>46</sup> GFAP, Annexe III, 1995.

<sup>47</sup> GFAP, Annexe VI, 1995.

<sup>48</sup> GFAP, Annexe IB, 1995.

<sup>49</sup> Best illustrated with the so-called ‘Bonn Powers’ that were given to the High Representative.

### *Mandate and Activities Evaluation*

The OSCE mandate under the GFAP focused on elections, human rights and regional stabilisation. As demonstrated, these have been broadly interpreted over time to cover new activities that emerged in a changing environment. Luckily the system has proven to be flexible enough to allow for this, and mission autonomy has been crucially important in achieving this. While initial activities derived from the mandate focused on short-term problems, current activities tackle more long-term concerns, such as the educational system, sustainability of return, capacity-building of those elected. What has been absent, however, has been a comprehensive vision from the Mission itself about how Mission activities should develop over the long term. Instead, activities have been adjusted step by step.

On the other hand, the high level of flexibility does risk the mandate priorities changing often, causing the Mission to move from one new priority to the next, negatively influencing the effectiveness of existing activities. Mission activities have been too focused on the elections. It was underestimated how important it is to create the right conditions for free and fair elections, as well as how important other long-term objectives are, such as rule of law and education.<sup>50</sup>

Another shortcoming of the mandate is that no clear exit strategy has been included from the outset. As political attention for BaH is decreasing and funds are dwindling, the issue of an exit strategy is coming stronger to the fore. The United Kingdom and the Russian Federation have been recently advocating the principle of zero budget growth in the OSCE. This is likely to start affecting the Mission during the coming years. However, a clear exit strategy has not been drafted as yet and preparations for handing over certain activities have started late.<sup>51</sup>

The development of a clear exit strategy for the OSCE should be one of the main attention areas of the Netherlands during its chairmanship. For each area in which the Mission is active, clear end-goals need to be defined as well as realistic time-lines that go with these. It is important to make clear, however, that the Mission is not leaving before it fulfils certain objectives. If it is believed that the Mission is only there until a fixed date, a stalling technique can be employed by unwilling domestic authorities, to wait out until the Mission has left. Therefore, an exit strategy should always focus on reaching certain objectives rather than meeting a deadline.

In defining end-goals for the Mission, a realistic perspective should be followed. It will not be possible to reverse ethnic cleansing fully, establish a perfect rule of law, and leave behind a totally integrated armed force and educational system. Rather, as a minimum, a self-sustainable situation should be left behind. Thereafter a smaller Mission could be left to defend the achievements of the existing Mission.

The issue of an exit strategy is closely connected to the process of handing over responsibilities to domestic authorities. The first step in defining an exit strategy is to make sure that a capable and reliable domestic partner can take over obligations. At present this partner does not exist. This has a political and technical dimension: politically, many of the aims of the OSCE run counter to those of

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<sup>50</sup> As the former Head of Mission Barry recently put it; ‘Thanks in large part to the United States, the OSCE has placed too much emphasis on holding and monitoring elections. As evidenced by the experience in Bosnia and Kosovo, elections demand huge resources and do not necessarily help build civil societies. Most weak ex-communist states would be better served by creating an independent judiciary than by holding early and frequent elections’; see Robert Barry, *The OSCE: A Forgotten Transatlantic Security Organisation*, Basic Research Report, July 2002.

<sup>51</sup> A clear example of the absence of a long-term exit strategy is the handover of the elections to the local government.

the main domestic political forces; and on a technical level, insufficient local capacity exists to take over.<sup>52</sup> A comprehensive capacity-building strategy needs to be urgently developed with the new government to ensure that the local authorities are able to take over OSCE obligations in the future.

### *Policy Coordination*

As mentioned earlier, the GFAP mandated a large number of international organisations to monitor the implementation of various segments of the agreement. Often mandates have overlapped, causing serious shortcomings in the coordination of efforts.<sup>53</sup> According to the international think tank ICG, a reshaping of the international presence was necessary to address five problems:

- lack of a shared strategic vision;
- uncoordinated leadership;
- duplication and lack of communication;
- personality clashes and cross-cutting institutional interests;
- ineffectual management of economic reform.<sup>54</sup>

Policy coordination is of particular importance for the OSCE Mission, as it often relies on the support of other actors to force through decisions. The Mission itself has no significant direct power instruments<sup>55</sup> at its disposal, or significant direct incentives to convince parties to cooperate. Power instruments are concentrated with the High Representative, who can impose decisions, and SFOR, having military supremacy. The main financial incentives are with the IMF, World Bank and large donors. The Council of Europe, EU and NATO have much desired membership with which to lure. Since it has none of the above to offer, the OSCE has been able to ‘convince’ domestic authorities to cooperate through its coordination with the above-mentioned actors.

The lack of policy coordination among the various actors is confusing for domestic authorities. For example, the Prime Minister of the RS, Mladen Ivanic, notes in an interview that: ‘It is sometimes very difficult for me to know who is doing what. For example on taxes: is it IMF, World Bank, European Union? It is a nightmare. They have different opinions. They are not coordinated among themselves’.<sup>56</sup> Not only does this create a problem for local government, it also creates an opportunity: obstructionist public officials get ample opportunity to play off international actors.

To address the above-mentioned problems, during 2002 the OHR has led a so-called ‘streamlining’ process, which is to lead to better coordination of efforts. The streamlining process only started after the shortage of international funding became increasingly pressing and as the UNMIBH and UNHCR were preparing to leave the country. Some argued that the whole process was driven by the shortfall of funds. The streamlining process was initiated in the summer of 2001, supported by the

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<sup>52</sup> The difficulties in handing over the elections illustrate the point. Although local authorities have assumed full control, seconded OSCE local personnel are still running the show in the Elections Secretariat and a large proportion of the elections are funded by international donors.

<sup>53</sup> A senior OSCE official noted in an interview that: ‘It is an exception, rather than the rule for the International Community to speak with one voice and move together ... We need to spend more time to coordinate and streamline our efforts’.

<sup>54</sup> ICG, Balkans Report 121, Sarajevo/Brussels, 29 November 2001.

<sup>55</sup> The most important power instrument that the Mission had at its disposal, control over the Provisional Election Commission, is evaporating as it hands over the elections to the local authorities.

PIC Steering Board and led by the OHR.<sup>57</sup> On 28 February 2002 the Steering Board endorsed a new streamlined set-up.<sup>58</sup> Besides more efficient and effective coordination of activities between various agencies, the new set-up strives to be open to the public and to work more closely with BaH authorities.

The streamlining resulted in agencies giving up certain activities to others. For example, the OHR agreed to close its Human Rights Department as the OSCE took the lead. Also, the OHR military cell is to be merged with the OSCE Department for Security Cooperation. Moreover, it was agreed to merge the currently separate offices of the OHR, OSCE and UNHCR in the field. Streamlining resulted in three elements: the Cabinet (the Board); four inter-agency Task Forces; and a Situation Group.

One new phenomenon that has been introduced with the Task Forces is the introduction of a tracking mechanism. Each Task Force will define and prioritise its issues and agree on a common set of benchmarks and time-lines. It is aimed 'to the extent possible' to develop these mechanisms together with local authorities in order to promote ownership.

One of the main aims of the Task Forces is to prepare for handover to BaH authorities. Consequently local representatives should be included in the structures. However, a senior official noted to his surprise that 'all Task Forces have been limited to internationals. No local bodies or government representatives are involved'. He believes that the credibility of the IC would be damaged if local authorities were to see the strong differences of opinion and that they could even play these off to their own advantage.

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<sup>56</sup> In an interview, Banja Luka, 28 May 2002.

<sup>57</sup> Communiqué by the PIC Steering Board, Thursday 21 June 2001.

<sup>58</sup> Communiqué by the PIC Steering Board, Brussels, 28 February 2002.

### ***International Presence in BaH after Streamlining***

The **Board** consists of the principles of OHR (Chair), OSCE, SFOR, EC/EU, UNMIBH and UNHCR. Representatives of other IC members are invited if relevant. The Cabinet is fed by weekly reports of the Situation Group and reports of the Task Forces. The High Representative seeks to build consensus in the Cabinet on key policy issues. Once agreement is reached, the issues will be sent to the Steering Board for review. BaH authorities will be invited to attend these sessions to promote partnership and ownership.

The **Situation Group** consists of on-call representatives of OHR, OSCE, SFOR, UNMIBH/IPTF and UNHCR who have access to their superiors. It engages in crisis response and information management and strives for an informed and coordinated IC response to crises.

The **Task Forces** develop coordinated policies and implementation strategies. Each Task Force has permanent members. Others can be invited if necessary. The Task Forces are meant to ensure that the work of the IC is aimed at integrating BaH into European structures following the requirements of the Council of Europe, the EU Road Map and the EU Stabilisation and Association Process. The four Task Forces are: Economic Reform; Return and Reconstruction; Institution Building; Rule of Law. The OSCE is involved in all except the Economic Reform Task Force. Each Task Force is subdivided in specific 'issue-sets'. For each issue-set, a lead agency is identified.

The **OSCE is involved in seven sub-issues**, namely:

Under the Return and Reconstruction Task Force:

- 1) Property Law Implementation (PLIP) Cell, which it co-leads with the OHR;
- 2) Sustainability, which it co-leads with the OHR..

Under the Institution-Building Task Force:

- 1) Democratisation and Civil Society, which it leads. This includes elections, political parties, public campaign, youth and politics, non-governmental organisations;
- 2) Defence and Security, co-led by SFOR, which includes military reform, demobilisation, demining and civil aviation;
- 3) Institution Monitoring, co-led by the OHR, which includes state monitoring, entity and district institutions;
- 4) Education (new), chaired by the OSCE's HoM.

Under the Rule of Law Task Force:

- 1) Human Rights, which it leads. This includes quasi-judicial institutions, legal aid/information, Annexe 8, trial monitoring, juvenile justice reform.

It is difficult to judge at this stage whether the streamlining process has been successful. However, many interview partners were sceptical. For example, one head of an international agency noted that 'we are the lead agency on an issue, but were not even informed that a working group on the issue was being held'. Another official believed that 'streamlining might be perceived as having more meetings, but not necessarily producing more results'.

Although some scepticism is justified, the whole operation might yield very positive results. A first good sign is that activities have been focused, and the OHR indeed handed over its human rights activities to the OSCE Human Rights Department and its military cell did merge with the OSCE

Department for Security Cooperation. However, the process is far from complete. The new structures will only be effective if lead agencies push for their implementation and all involved will accept to be coordinated. The tracking mechanism is a particularly interesting instrument, which should help the OSCE to design an exit strategy and pursue a more result-based approach. Coherence of the international voice is important, but it is also crucial to involve local government. Some internationals have expressed their worry that despite rhetoric, no serious partnership will be sought. A final observation is that several Task Forces and issue-sets have more than one, and often many, co-lead agencies. Whether this is effective remains to be seen.

### *Structure of the Mission*

The Mission has five central departments: Elections; Democratisation; Human Rights; Regional Stabilisation; and Education. Besides these, a Department for Press and Public Information and a Section for Administration and Operations exist. The Mission is led by a Head of Mission, currently US national Robert Beecroft. He holds office in Sarajevo with two Deputy Heads of Mission. Four regional centres (RCs) are located in Sarajevo, Banja Luka, Mostar and Tuzla. These RCs, along with the field offices (FOs), ensure that the Mission's policies and programmes are implemented throughout BaH. Each of these centres is managed by a Regional Centre Director, who provides guidance to the field offices in his/her region. In each of these RCs a Senior Officer for Democratisation, Elections, Human Rights and Security Cooperation is present.<sup>59</sup> All also feature a Press Officer, Political Officer, Operations Officer and Finance Officer. In the more than twenty field offices, a Democratisation and Human Rights Officer is found, as well as an Elections Implementation Adviser and support staff. Plans are being made to dispatch up to 21 Education Officers to these field offices as well. This wide field presence is obviously one of the greatest strengths of the Mission. This presence ensures that the Mission can maintain good contacts with the reality on the ground and push for the implementation of central policy on a local level.

## **C: Elections Department**

### *Introduction*

The organisation of elections has traditionally been the core activity of the Mission. It has consumed most of the Mission's budget, and the public identifies the OSCE (often exclusively) with the elections. The OSCE organised and supervised general elections in BaH in 1996, 1998 and 2000, as well as the municipal elections in 1997 and 2000 and extraordinary elections for the RS National Assembly in 1997.

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<sup>59</sup> A Senior Education Officer is going to be hired for each centre.

<b>Elections in Bosnia and Herzegovina since 1990 (all except 1990 organised by OSCE)</b>	
Elections	Year
General	1990
General	1996
Municipal	1997
Extraordinary/ RSNA	1997
General	1998
Municipal	2000
General	2000
General	2002

Early on, the OSCE very much focused on establishing the *technical framework* necessary to organise the first post-war elections. Soon, however, it became obvious that solely a neutral election instrument would not change the ethnic-nationalist reality of politics in BaH. Progressively more emphasis was given to creating *conditions* for free and fair elections to take place. The Democratisation and Media Departments were established to further that aim.

During the organisation of the 1996 elections, the OSCE followed an even-handed approach to all political parties taking part. For example, prior to the 1996 elections, the OSCE provided funding for all political parties.<sup>60</sup> After the failure of the 1996 elections, which again brought to power the same ethnic-nationalist parties that had escalated the conflict into armed conflict, the international community started ‘a deliberate policy to hold elections frequently in order to (...) accelerate the erosion of support for hard-line nationalist politicians’.<sup>61</sup> Moreover, during the 1998 election, funding to political parties was focused on so-called ‘multi-ethnic parties’ through a programme run by the Democratisation Department. Another clear example of an increasing political role was one of the slogans printed on OSCE posters in the 2000 elections, which read ‘Vote for Change’, clearly advising voters to turn away from the main ethnic-nationalist parties. This policy has, however, had very limited results.

The activities of the Elections Department have also been linked to the return process. As a tool for stimulating return, candidates illegally occupying the flat of a refugee or IDP could not stand as a candidate in elections.<sup>62</sup> In the recent law, this measure has been widened: now, individuals illegally occupying property even have no right to vote.<sup>63</sup>

Unexpectedly, on 21 August 2001, the BaH House of Representatives adopted the Election Law,<sup>64</sup> which two days later passed parliament and entered into effect.<sup>65</sup> Adoption of the law took

<sup>60</sup> This caused a very embarrassing incident, as the OSCE awarded the party of the war criminal Zeljko ‘Arkan’ Raznjatovic US\$ 200,000.

<sup>61</sup> Report on the Conformity of the Legal Order of Bosnia and Herzegovina with the Council of Europe Standards, AS/But/BiH (1999), 1 rev. Strasbourg, 7 January 1999, p. 39.

<sup>62</sup> Also included in the new election law, Article 18.9

<sup>63</sup> Also included in the new election law, Article 18.8. Although this is an interesting paragraph in theory, in practice it will be very difficult to implement.

<sup>64</sup> The SDS and HDZ did not partake in the vote.

<sup>65</sup> This law, however, still contained certain gaps concerning the election of the two entity Presidents and the Federation’s House of Peoples, pending implementation of the Constitutional Court decision (see below). On 19 April 2002, the High Representative decreed amendments to fill these gaps in the election law.

place under heavy international pressure.<sup>66</sup> After the passage of the law, the OSCE started handing over the electoral process to the local authorities, which has proven to be a difficult process.

The general elections of 5 October 2002 were held under the ultimate responsibility of the BaH state, although behind the scenes they were still very strongly supported by the OSCE. The political stakes in this election were very high, as they resulted in four-year mandates for the first time. The elections were monitored by ODIHR.

### *Mandate*

Under Annexe III of the Dayton Peace Agreement, the OSCE was mandated to organise the BaH elections. In article 2 of this Annexe, it is stated that; ‘The Parties request the OSCE to adopt and put in place an elections programme for Bosnia and Herzegovina’. The initial plan was to have a one-time involvement: the organisation of the first post-war elections. According to the peace agreement, these were to take place ‘six months after entry into force of this agreement or, if the OSCE decides a delay necessary, no later than nine months after entry into force’.<sup>67</sup> The Agreement also mandated the OSCE to establish a Provisional Elections Commission (PEC), which adopted the rules and regulations<sup>68</sup> for the elections. Through its sanctions tools, this became the OSCE Mission’s strongest direct power instrument. The PEC could *inter alia* decertify candidates and refuse parties the right to participate in the elections. The HoM chaired this Commission, with his decision being final in the case of a dispute. Finally, the OSCE was made responsible for certifying (and de-certifying) election results. The mandate on elections had certain weak points:

- It was too short term. It was envisaged that the OSCE would only be responsible for the first elections. This was naive;
- The timeframe for the organisation of the first elections was too short.<sup>69</sup> Elections were organised immediately after the war, which legitimised the power of the three main nationalist parties that had also been responsible for waging the war. This gave insufficient time for serious opposition forces to organise themselves properly;<sup>70</sup>
- A clear exit strategy should have been incorporated from the outset, including a realistic long-term strategy for handing over the elections to the government.

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<sup>66</sup> For example, the Steering Board in a statement in June 2001 ‘reminds the competent BaH institutions of their obligation to adopt promptly the election law, honouring their commitments to the EU Road Map and the accession criteria of the Council of Europe’; Communiqué by the PIC Steering Board, Thursday 21 June 2001.

<sup>67</sup> GFAP, Annexe III, article 2, para. 4.

<sup>68</sup> GFAP, Annexe III, article 2, para. 3.

<sup>69</sup> Dayton stated that elections had to be organised in principle six months after the end of the war, with a possible delay of another three months.

<sup>70</sup> As a former head of the Democratisation Department put it: ‘Some basic democratic elements must be in place before (meaningful) elections can be conducted. These elements include a minimum of credible political opposition parties, independent media, organised civil society, rule of law, and sense of security and trust’; see Elisabeth Rasmusson, *Democracy in the Making, Lessons Learned from Bosnia and Herzegovina*, Human Rights Report 2/2000 (Oslo: Norwegian Institute of Human Rights, 2000), p. 4.



*Activities in 2002: Focus on Handing Over*

As the Elections Department will be closed at the end of 2002, its work is fully geared towards handing over the elections to local authorities and assisting them in running these. This has turned out to be a difficult process.

The Permanent Elections Commission, which succeeded the Provisional Election Commission, coordinates the elections. It derives its authority from and directly reports to the Parliamentary Assembly of BaH. The Election Commission was established in November 2001 and its members were appointed by the OHR.<sup>71</sup> Continuity has been maintained by seconding experienced national OSCE staff to the Election Commission's Secretariat. These personnel receive an OSCE-level salary in 2002, so as to guarantee that they will stay on. After 2002 they might find other jobs, as local salary levels are unsatisfactory to them and salaries are not always paid regularly by the state. The issue of continuity not only exists with regard to the Elections Commission, but the presence of experienced staff in the decentralised Municipal Elections Commissions is also crucial. Financially, the elections still receive strong international support, despite the fact that they became much less expensive.<sup>72</sup> However, international funding for the elections is still required and the fund-raising effort was driven by the OSCE.<sup>73</sup> Various senior OSCE officials recognised in interviews that the handover process had started far too late.

In Kosovo, however, this lesson has been learned. A senior OSCE official noted in an interview that in Kosovo: 'They are already working on the establishment of a permanent body to run the elections in 2004 in partnership'.

*Conclusion*

After the elections, the final phase of handing the elections over to local authorities commenced. It is not yet sure whether key local personnel in the Secretariat will stay after the OSCE withdraws its financial backing, but their departure could pose a serious threat to the continuity of the elections. A strategy to deal with this needs to be developed urgently in cooperation with the new government, otherwise the next elections might very well require renewed involvement from the OSCE. The Mission should be given sufficient time carefully to carry over responsibilities, or precious ground that was painstakingly made during recent years would be lost. However, the Mission should take the issue of a proper long-term exit strategy more seriously, also in other areas in which it is active.

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<sup>71</sup> Consisting of four nationals and three internationals.

<sup>72</sup> Whereas the costs of the elections used to be 24 euro per voter, this has now been reduced to 5 euro.

<sup>73</sup> The Head of the Elections Department, Franceska Binda, was actively raising funds for the 2002 elections, together with a state representative. The local government, meaning the state government and both entity governments, all substantially contributed to the costs of the elections, although significant international sponsoring was still required. The state of BaH pledged 1.2 million Konvertibilnih Maraka (KM; Convertible Mark), the RS one million, and the Federation 1.6 million KM. International financial contributions were inter alia received from the United Kingdom, the United States, Norway and Germany.

## **D: Democratisation Department**

### *Introduction*

The Democratisation Department has long operated in the shadow of the Elections Department. It was initially established to create conditions for holding free and fair elections, and for a few years it has been focusing on strengthening multi-ethnic opposition parties as well as progressive local NGOs. It is currently mostly involved in governance activities, building the capacities of elected institutions.

### *Mandate*

The Department's mandate was established under the election-related annexe of the Dayton Agreement and the attached paragraphs 7 and 8 of the OSCE's Copenhagen Document of 1990. As both the GFAP Annexe III and the Copenhagen paragraphs clearly deal with the conditions for free and fair elections, the democratisation mandate had to be viewed in this light, especially during the first year of the Mission. In fact, paragraph two of the first article of Annexe III authorises the OSCE 'if necessary to provide assistance to the parties in creating these conditions'.<sup>74</sup>

In early 1996, a small democratisation unit was created within the Human Rights Department, focusing on civil society with a special emphasis on support to local NGO's, confidence-building initiatives and dialogue. The PIC's Lisbon Summit Document of December 1996 mandated the OSCE Mission to 'assist in democracy building through concrete programmes'.<sup>75</sup> At this meeting it was decided to establish a separate branch for democratisation. The Department's activities had certain weak points:

- Especially in the early days it was seen as too narrowly elections-related, and therefore had difficulty in developing an identity of its own;
- There should have been provisions made to assist those that would be elected to function properly in office immediately after the first elections in 1996.

### *Activities in 2002: Focus on Governance*

Over time, the activities of the Department have shifted from creating conditions for elections to working with the elected officials and institutions. Initially the governance programme was started as a result of the 1997 PIC meetings in Sintra and Bonn, which called upon the OSCE to ensure the

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<sup>74</sup> In a paper by HoM Frowick to all delegations on 18 June 1996, reference is already made to the necessity of democratisation activities aimed at fulfilling the twelve distinct criteria, which are derived from the Dayton election Annexe. These twelve criteria, all strictly election-related, had to be fulfilled before any elections could be held. These twelve were subdivided by the Ambassador in eight so-called administrative and four substantive conditions: the substantive conditions were a politically neutral environment, freedom of movement, freedom of association and freedom of expression; administrative conditions were protecting and enforcing the right to vote in secret; ensuring the will of the people as the basis of governmental authority, ensuring that all seats in at least one chamber of government are freely elected in a popular vote, guaranteeing universal and equal suffrage to all citizens, safeguarding the right of citizens to seek office without discrimination, enabling individuals and groups to establish their own political parties, ensuring that candidates with the number of votes required by law are duly installed in office and permitted to remain there until their terms are legally terminated, and inviting observers to be present at elections.

<sup>75</sup> OSCE Document, Lisbon Summit Declaration 1996 (DOC.S/1/96), article 15, 3 December 1996.

implementation of election results through participating in and supporting projects aimed at developing and strengthening democratic institutions.<sup>76</sup>

The only remaining activities that are directly geared towards the pre-election process are the thirteen so-called *political resource centres*. In the run-up to the elections, these initiated a so-called ‘Political Party Pluralism Support Project’. Under this Project, training and technical support were given to opposition parties in (nationalist) single-party-dominated areas. They also provided presentations for political party municipal boards on the BaH Election Law, materially assisted voters with registration, voter education, and campaigning. These centres are financed from ‘voluntary contributions’.

The main focus of the Department in 2002 has been on *governance*-support activities on three levels: support to *municipalities* (MIFI Programme), *Cantonal Governments* (CAP Programme) and the *Parliament* (Parliamentary Support Project). Programmes that were cut from 2001 are the programme in support of civil society and an intra-party democracy programme. A programme supporting women in politics has been modestly reduced.

- The *Municipal Infrastructure Finance and Implementation Project* (MIFI) promotes efficient and effective public administration, sound project and capital planning and transparent financial management, and engages 34 of a total of the 146 municipalities throughout Bosnia and Herzegovina. Related to this project, another project is being developed, entitled *Municipal Outreach and Development Project* (MODP), which is designed to foster democratic developments in up to ten single-party-dominated municipalities. In a recent publication by former Head of Mission Barry, this programme is hailed as a great success.<sup>77</sup>
- The *Cantonal Administration Project* (CAP) is in operation in four out of ten Cantons in the Federation and was initiated in 2001. It targets cantonal legislative and administrative authorities, and aims at enhancing the application of modern public management tools.
- The *Parliamentary Support Project* (PSP)’s aims in 2002 were to strengthen its capacity-building activities in the Parliamentary Assembly of BaH and increase the accessibility and the relevance of the common institutions. With the programme, the Department aims to counteract the marginalisation of the state’s institutions. This programme is centrally implemented in Sarajevo.

In addition to these centrally conceived programmes, the regional centres and field officers organise their own (smaller) activities. The OSCE also offers logistical support to various NGOs, such as the National Democratic Institute (NDI). This is very much valued by the NDI Country Director, Michael Balagus:

‘The OSCE has been supporting our political party training programme. The OSCE has a large network and identifies the needs of the parties (...) They in a sense are our eyes and ears. They are extremely helpful, they communicate with the parties, identify participants for our training and facilitate us’.<sup>78</sup>

<sup>76</sup> Elisabeth Rasmusson, *Democracy in the Making, Lessons Learned from Bosnia and Herzegovina*, Human Rights Report 2/2000 (Oslo: Norwegian Institute of Human Rights, 2000), p. 49.

<sup>77</sup> Robert Barry, *The OSCE: A Forgotten Transatlantic Security Organisation*, Basic Research Report, July 2002.

<sup>78</sup> In an interview, Sarajevo, 30 May 2002.

## *Conclusion*

Democratisation activities were originally perceived as an instrument to secure conditions for elections. With the handover of the elections to the domestic authorities, democratisation activities are becoming more centre stage. The work that the Department has been undertaking in supporting multi-ethnic political parties and progressive NGOs has not achieved the ultimate result that was hoped: a serious shift in the political landscape in favour of moderate parties. This is not only to blame on the OSCE, however, as other international actors (embassies and the OHR, for example) have been engaged in this process as well. The stronger emphasis that the Democratisation Department has recently placed on its governance programmes is logical and should be applauded. In the light of the OSCE handing over activities to domestic authorities, it would be advisable to expand these activities further to all government institutions to which it plans to hand over activities. The new election mandate will be four years, making capacity-building of those elected crucial. Instead of trying to bring into power new parties that are more likely to share OSCE values, the strategy needs to focus on working with whoever is elected and convincing them into cooperation. However, activities supporting opposition parties should be retained at a lower level during the next four years.

## **E: Human Rights Department**

### *Introduction*

Traditionally, the work of the Human Rights Department focused on the return of refugees and IDPs. This has remained its core activity to date, and has been a crucial area for several reasons. First of all, the right to return is guaranteed as a basic right under the GFAP; an entire annexe of the Peace Agreement has been devoted to it. Secondly, it is seen as a moral obligation, after the international community failed to halt the ethnic cleansing during the war. Finally, the right to return also has an important political aim: remixing the population in the country. It is believed that this will be important for the moderate political parties, as it will give them a larger voter base. The Department is also engaged in other activities, such as the handover of the Ombudsmen and supporting activities of the Independent Judicial Commission (IJC).

### *Mandate*

The OSCE's human rights mandate originates from various sections of the Dayton Peace Agreement, notably the following three:

#### *1. General*

'... The Parties join in inviting the United Nations Commission for Human Rights, the OSCE, the United Nations High Commissioner for Human Rights, and other intergovernmental or regional human rights Missions or organisations to monitor closely the human rights situation in Bosnia and Herzegovina' (article 13 of Annexe VI of the GFAP). Given that BaH is pledged under Dayton to abide by sixteen international human rights agreements, this is quite a formidable task.

## 2. Ombudsman

‘The parties hereby establish the Office of the Human Rights Ombudsman (the “Ombudsman”). The ombudsman shall be appointed for a non-renewable term of five years by the Chairman-in-Office of the Organisation for Security and Cooperation in Europe (OSCE), after consultation with the parties’ (articles 1 and 2 of Annexe VI of the GFAP). In article 14 a provision was made for the transfer of the Ombudsman, which reads ‘Five years after this Agreement enters into force, the responsibility for the continued operation of the Commission (consisting of *inter alia* the Ombudsman, YdP) shall transfer from the Parties to the institutions of Bosnia and Herzegovina...’.

## 3. Return of Refugees and IDPs

Although the main activities of the OSCE Human Rights Department have been focused on return-related issues, the OSCE is not mentioned in Annexe VII of the Dayton Peace Agreement, which deals with refugees and displaced persons. The main international organisation mandated under Annexe VII is the UNHCR. In Annexe VII, however, the right to return is clearly outlined in the first article; ‘All refugees and displaced persons have the right freely to return to their homes of origin. They shall have the right to have restored to them property of which they were deprived in the course of hostilities since 1991 and to be compensated for any property that cannot be restored to them’. The parties are responsible under Annexe VII to create the social-political environment necessary to facilitate this return, as well as to provide security for returnees.

The mandate on human rights had certain weak points:

- as with all other activities, the level of intervention increased over time. Whereas the GFAP spoke about closely monitoring the human rights situation, the OSCE slowly got involved in implementation aspects, especially in the Property Law Implementation Plan (PLIP). It would have been better to mandate stronger implementation powers from the outset;
- as with the elections, it was later realised that the technical implementation of the property law alone does not in itself create *conditions* for return. From the outset a comprehensive analysis should have been made, which would have shown that issues such as education for returnee children, pension fund regulations, fair employment and the like are crucial if one is to try to establish *sustainable* return.

### *Activities in 2002: Focus on Return*

Before a closer look at the activities of the Department in the field of return, examination will be made of the oldest OSCE obligation in BaH: the institutions of the Ombudsman.

On 4 March 1994, the CSO decided to appoint a Human Rights *Ombudsman* in BaH, financed by the (then) CSCE and appointed by the CSCE Chairman-in-Office.<sup>79</sup> In support of the Ombudsman, the CSCE decided in June 1994 to establish a Mission to Sarajevo<sup>80</sup> which became operational in October 1994.<sup>81</sup> Under Dayton, as mentioned above, the OSCE was mandated to continue the operation of the Ombudsman. At present three Ombudsmen exist in Bosnia and Herzegovina: one for Central BaH;

<sup>79</sup> OSCE Document; 25-CSO/Journal no. 3, March 1994.

<sup>80</sup> OSCE Document; Journal no. 23, June 1994.

<sup>81</sup> OSCE Annual Report 1995 on OSCE Activities.

one for the Federation;<sup>82</sup>, and a RS Ombudsman.<sup>83</sup> OSCE field staff forward cases to these institutions and assist in their investigations. The majority of cases relate to the repossessing of property.

In line with its Dayton mandate, the OSCE in 2001 initiated the handover of the Ombudsmen to domestic authorities. A combination of entity funds and voluntary contributions from OSCE member states now fund these.<sup>84</sup> It seems that complementary international funding will remain necessary in the foreseeable future. The salary of personnel has been high to guarantee that they stay on, which was only accepted by the RS government after a long debate, as it is feared that this is unsustainable and unfair towards other professionals in society. The OSCE will still continue to extend its support to these institutions, and indeed the continued support by the relevant authorities is part of the CoE post-accession criteria, as is the requirement that the three institutions merge into a central institution in the future.<sup>85</sup>

The focus of the Department, however, has traditionally been on *return*, particularly the return of minorities. In recent years, minority return has been significantly increasing, and this would not have been possible without strong international pressure. In certain political hard-line areas, such as western Herzegovina and the eastern part of the RS, minority return is still extremely problematic. The work of the Department focuses on assisting refugees and IDPs to reclaim their property as the first logical step in the return process. On this, the OSCE collaborates with OHR, UNMIBH, UNHCR and the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) in the so-called Property Law Implementation Plan (PLIP). The objective of PLIP 'is to ensure that all outstanding claims by refugees and displaced persons to repossess their properties are resolved'.<sup>86</sup> By depoliticising and institutionalising the issue, while closely monitoring implementation and applying pressure where necessary, those involved try to speed up implementation. Whereas field staff used to be very involved with individual clients, currently they focus on monitoring legal procedures and making sure that claims are treated in the order in which they have been filed. The strength of the OSCE here is its widespread field presence, which enables it to monitor and supervise the implementation of the law in the field. Field Officers run files, reporting failure to implement the property law by local officials, in each of the more than 140 municipalities. The High Representative can dismiss the most problematic officials. A senior UN official is very satisfied with the PLIP progress: 'We have major progress. We now have a 49 per cent implementation rate. If you compare the property situation after the Second World War with the situation here, it is really a major achievement'.<sup>87</sup> He says that the PLIP's success can be explained by good international cooperation on the matter. The various international actors closely cooperate and have formulated a joint policy. The

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<sup>82</sup> Established January 1995.

<sup>83</sup> Established in April 2000; Official Gazette of the Republika Srpska, no. 4/00 of 9 February 2000, published on 8 March 2000.

<sup>84</sup> This was accomplished gradually. In 1999 the budget of the RS Ombudsman was totally funded from the OSCE Mission's core budget. In 2000 its budget consisted of both core budget as well as voluntary contributions. In May 2001 the RS National Assembly budgeted one million KM for the Ombudsman, which is still supplemented with OSCE voluntary contributions.

<sup>85</sup> Under the post-Council of Europe accession commitments, BaH has pledged 'to work towards establishing multi-ethnic Ombudsmen and to consider establishing, in the long term, a single, unified Human Rights Ombudsman's Office at state level, which would include the present Ombudsmen institutions at Entities level', Joint Statement regarding the Future of the Human Rights Ombudsman Institutions of Bosnia and Herzegovina, OHR Press Release, Tuesday 16 April 2002.

<sup>86</sup> Property Law Implementation Plan (PLIP), Interagency Framework Document, October 2000.

<sup>87</sup> In an interview, Sarajevo, 29 May 2002.

property law implementation rate is expected to reach 85 per cent by the end of 2003, and to be almost complete in 2004.

Although successful, the PLIP explicitly does not address those issues required for the creation of *sustainable returns*, which continues to be hampered by individual and systematic discrimination in employment, education and social services. As we have seen in the social-political section, this issue of sustainability is increasingly coming to the fore, as more returnees are given their property back. Many returnees sell their property after they regain it and young people do not return at all. Sustainability is thus really problematic. However, the extent to which it has been (un)successful is unknown: no reliable data on the sustainability of the return is available. Activities to promote the sustainability of return, particularly of minority returnees, are undertaken however, especially in the fields of access to employment, education, pensions and health. Cases of discrimination are referred to local lawyers and legal aid and information centres and important cases are supported through the courts and the Human Rights Chamber if appropriate.

Return is clearly a *regional issue*. Refugees are spread over the region, blocking each other's return by occupying the other's apartment. The Department therefore sought cooperation with the OSCE Missions in Croatia and Yugoslavia. Such regional cooperation had earlier been promoted by former HoM Robert Barry and has resulted in a joint statement on return by the three HoMs.<sup>88</sup> In this document they lay down seven principles for return of refugees, asking for a comprehensive policy from the three concerned governments. It has been established that the Croatian property law and obstruction on the ground in Croatia are at present the biggest obstacles to return in the region. An estimated 40,000 Croatian Serbs currently residing in Banja Luka and northern Republika Srpska are particularly affected by this.

The Department gives input to the *Independent Judicial Commission (IJC)*, which assesses the suitability for continued employment of all judges and prosecutors. There are currently too many of them employed, and many will lose their jobs. OSCE field staff have been forwarding complaints about judges to the IJC. Moreover, field staff are reviewing their housing situations to determine who is illegally occupying property. Reappointment is impossible in that case. Representatives of the IJC have recognised the valuable input of OSCE Human Rights Officers in filing complaints and noted that the OSCE has in fact been one of the main sources for complaints. However, an IC representative noted that the quality of the complaints was not always high: 'It's the secondment system. Many come in for a short period and do not know domestic law. They submitted 28 cases, but the OSCE got much of the legal analysis wrong'.

Finally, the Department continues to support *Stability Pact Initiatives* such as Roma and Sinti issues, trafficking in human beings and cross-border return. As the lead agency for trial monitoring, the OSCE will establish a mechanism to monitor the functioning of the legal/judicial system. Moreover, it will continue its support to the domestic human rights institutions.

The importance of the Department is likely to increase. Under the streamlining effort, the OHR has closed its Human Rights Department. Moreover, the UNHCR and UNMIBH, with whom the OSCE collaborates on return issues, are shortly to close their operations in BaH.

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<sup>88</sup> CIO.GAL/54/01.

### *Conclusion*

The traditional focus of the Department has been on minority return, and this will continue to be the case. Whereas it is currently focusing on property implementation issues, it will become more involved in the sustainability of return. As the OHR is closing its Human Rights Department and the UNHCR is leaving the country altogether, the OSCE will be the prime human rights actor in the field. This will place additional responsibility on the Organisation. To ensure the quality of the Department's work, the suitability of human rights field staff should be investigated as this was criticised by various OSCE partners.

The PLIP is a clear showcase, demonstrating how close cooperation on the working level, on the basis of a clear joined strategy, can be successful. More effort, however, will need to be placed on the sustainability of return. It would be useful to start gathering statistics on sustainability, so that progress can be monitored. At present statistics are only available on the number of successfully claimed properties, but this does not say much about the actual number of sustainable returns. The future CiO should exert maximum pressure on the Croatian government, as it is at present the biggest obstacle to return in the region.

## **F: Security Cooperation Department**

### *Introduction*

In the field of security cooperation the OSCE is *inter alia* working on downsizing the military forces and bringing them under state-level civil control.

### *Mandate*

The overall aim of the Department for Security Cooperation (DSC) is to establish conditions under which military force can be eliminated as a means of resolving conflict in BaH. The OSCE is mandated under the Dayton Peace Agreement, Annex I-B, articles 2 and 4, to implement various military aspects of the GFAP. Close cooperation in this field exists with the Stabilisation Force in Bosnia and Herzegovina (SFOR). In the regional centres SFOR liaison officers are located in the same office as the OSCE Security Cooperation Officer.

### *Activities in 2002*

The work of this Department gravitates around three areas: the reduction of defence budgets; increasing transparency of the armed forces' finances; as well as restructuring and reducing them. It promotes civil control of the military through state-level defence institution-building and the development of an integrated defence policy.

Immediately after the war, no communication existed between the Federation and RS Armies. This has much improved due to combined SFOR/OSCE/OHR efforts. One of the main challenges of the OSCE Department is to strengthen the central command of the BaH Armies. This has been promoted by establishing the so-called Standing Committee on Military Matters (SCMM). The SCMM is a state-level organ, which was established as part of the GFAP. The RS has in particular been strongly resisting the strengthening of the SCMM's role in the direction of a state-level Defence



Ministry, as is promoted by the IC. NATO, however, has made a strengthened role of the SCMM a condition for PfP membership. NATO argues that it wishes to have only one organ in BaH with which it can communicate. Recent progress in this field has included the creation of a state military ceremonial unit and sending a BaH unit to strengthen the peacekeeping operation in Eritrea. Foreign support to the armed forces, such as training, is increasingly channelled through the SCMM.

Another key aim for the Department is at present the downsizing of the Armies from approximately 31,000 soldiers to 10-12,000. The IMF and international donors have put crucial pressure on the reduction of the armed forces. SFOR has made threats to use its Dayton powers to enforce it, and NATO has used Partnership for Peace membership as an important carrot.

### *Conclusion*

In the field of Security Cooperation, new tasks are also being assumed, as the OHR is handing over its military cell to the OSCE. It will continue to work on downsizing military forces and bringing them under a centralised, civil control. As the new Department Director comes from OHR, strong political backing of the Department's work is guaranteed. As has been noted earlier, backing for the Department from other international organisations is crucial to ensure that the parties cooperate.

## **G: Education Department**

### *Introduction*

In early 2002 the new High Representative requested the OSCE Mission to coordinate the IC's education activities. International activities in the field of education have so far been rather fragmented and little progress in education reform has to date been made. Despite some objections from *inter alia* the German delegation, the Permanent Council spoke out in support of this role on 4 July 2002.<sup>89</sup> A newly established Education Department presently coordinates the development of a long-term strategic plan for education reform with all the international partners, which was presented to the PIC at the end of October 2002. The newly elected government will be strongly urged to sign up to this strategic plan. Education will be a new issue set under the Institution-Building Task Force, and will be chaired by the OSCE in the person of the Head of Mission, himself a former schoolteacher.

### *Mandate*

The mandate has been justified as a spin-off from the OSCE's Human rights mandate, since education is specified in Annexe VI of the GFAP as an inalienable human right and fundamental freedom. The OSCE's legitimisation in taking up this responsibility is thus primarily based on the importance of education for the sustainability of minority return. Critics have argued that the OSCE has no clear mandate in the wider education field, however, and that it was looking for new responsibilities after handing over the elections to local authorities and not obtaining the policing mandate.

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<sup>89</sup> However, already before this approval, concrete preparations were being implemented in the Mission. In May 2002 the Mission was already preparing to hire staff.

*Activities in 2002: Focus on Access to Education and Non-Discrimination*

The following priorities for the work of the department and its partners have been identified.<sup>90</sup>

- Access to education and non-discrimination (lead: OSCE/UNHCR);
- Quality and modernisation of primary and general secondary education (lead: UNICEF, UNESCO and EC TAER (Technical Assistance to the Education Reform in Bosnia and Herzegovina));
- Quality and modernisation of vocational education (lead: EC/EU VET (Vocational Education and Training) Programme);
- Quality and modernisation of higher education (lead: EC TAER);
- Educational Finance and management (lead: World Bank/OSCE);
- Reform of education legislation (lead: CoE/OSCE).

The aim is thus twofold: a technical quality improvement of the system; as well as the more political aim of full access to education. Previously, in a press release dated 12 July 2002, however, another goal was outlined, namely ‘integration’ of the BaH education systems.<sup>91</sup> The OSCE plans to focus its involvement on the issue of access to education while coordinating the other issues.

The issues of access to education and integration of the curricula are very sensitive and obstruction is likely to be huge, especially in those fields that touch upon national identity.<sup>92</sup> As RS Prime Minister Mladen Ivanic put it in an interview: ‘I am against one unified curriculum. It is a good intention. But not geography, language, history. This has to remain [a competence of] the entities’. As certain subjects in curriculum development are very sensitive, the strategy will focus in the beginning on more technical issues such as quality standards in education, before touching upon more contentious issues.

One of the Education Department’s key activities will be monitoring the implementation of an ‘Interim Agreement on Accommodation of Specific Needs and Rights of Returnee Children’, signed by the entity Ministers of Education on 5 March 2002.<sup>93</sup> There are two problems with this Agreement, however: first, after the October 2002 elections new Ministers of Education took office; also the fragmented education jurisdiction in the Federation is a complicating factor, as the ten Cantons have separate jurisdictions.<sup>94</sup>

Besides the priority of promoting access to education, the OSCE is to become involved in educational finance and management. Building on the expertise gained from an audit of the military,

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<sup>90</sup> Please note that this and the following information is based on drafts of the Strategic Plan, and are subsequently still wide open to change.

<sup>91</sup> Education Group to Modernise and Speed Up Reforms, OSCE press release, Sarajevo, 12 July 2002.

<sup>92</sup> These so-called ‘national subjects’ are language and literature, history, geography, nature and society and religious instruction.

<sup>93</sup> This Agreement gives returnee children the right to be educated in the curriculum that they choose as far as the so-called ‘national subjects’ are concerned. For this purpose returnee teachers shall be engaged. The Agreement inter alia also provides for school boards to reflect the ethnic composition of the school’s population.

<sup>94</sup> Cases have already been reported of Canton Ministers refusing to implement this interim Agreement, stating that the Federation Minister of Education has no jurisdiction in their Canton.

the OSCE will provide technical support to a similar audit of the education sector. Additionally, the OSCE will assist the Council of Europe in passing new education legislation.<sup>95</sup>

In accomplishing these tasks, the Education Department proposes to set up an extensive field network of four regional Education Coordinators (each with one assistant) as well as 21 Education Officers in the field offices. On the central level an Education Director and Deputy Director positions are already being advertised. Additional central department staff are also requested.

### *Conclusion*

The issue of whether or not the OSCE as an organisation should have been given the education mandate, as raised by the German delegation, is a legitimate one. However, since this question has been answered positively by the Permanent Council, the delegations should leave this question behind them and fully support the Mission in achieving its new mandate. The task will be formidable. The area on which the OSCE itself will focus - access to education for minorities - is in particular extremely complex and delicate. The Education Department will need strong support and sufficient resources for an extended period of time to achieve this. The Permanent Council should realise that it has entered into a new long-term funding commitment of five to ten years if it agrees to the plans currently under discussion.

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<sup>95</sup> The post-accession Agreement includes passage of a law on schools on both the BaH and entity levels. The CoE has provided expertise in drafting a state-level law on schools and prototype laws for the Cantons and entities.



## Part III: Evaluation of Effectiveness (and Performance Records)

### A: Organisation and Management

#### *Policy Analysis and Programme Evaluation*

The Mission spends insufficient time on in-depth policy analysis and programme evaluation. Senior staff are constantly under pressure to respond to urgent matters, at the expense of carefully considering policy options and evaluating the results of running programmes. The Mission should engage in a more holistic long-term analysis of an issue before engaging in it. The recent Strategic Plan drafted by the Education Department is a positive example in this regard. In the past, the Mission has too often been moving from one priority to another, often later realising the next problem down the road. This leads to a reactive form of policy-making.<sup>96</sup> As no project cycle management (PCM) system has been systematically used in the Mission, it is very difficult to measure the impact of concrete programmes and improve them. This issue is covered in a separate section, as well as another related issue: long-term planning.

#### *Long-term Mission Planning*

A strategic long-term plan, with time-line and clearly defined end-states needs to be developed. Under the streamlining process, such a plan should be developed as part of the tracking mechanism. The Mission pursues long-term objectives such as democratisation, state-building and conflict transformation, but is equipped with short-term tools, *inter alia* six-month contracts and a one-year budget and mandate.<sup>97</sup> Immediately after Dayton this short-term, highly flexible approach was logical and reflected the (unrealistic) optimism in the IC with regard to the speed at which the GFAP would be implemented. However, as years passed, it became obvious that international involvement would be long term, but this was not coupled with a significant change in planning strategies or tools.

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<sup>96</sup> A good example is the elections. Whereas at first focus was on the technical organisation of the elections, it was only realised after a while that the conditions for elections needed to be secured. It took until 1998 before priority was placed on training those that were elected on how to organise themselves. All three elements should have been part of a comprehensive strategy in early 1996. A similar pattern can be observed in the area of return. After focusing on property implementation, the sustainability of return is only rather recently coming to the fore as a priority. This should have been better pre-empted.

<sup>97</sup> As a former Head of the Democratisation Department experienced it: ‘The international community is represented by persons working in BaH for shorter periods of time (one-three years) and they would like to see results, as would the donors ... strategies and plans are often developed with a very short time perspective in mind within which a lot needs to happen. Results must be produced in order to legitimise the resources that were spent’; see Elisabeth Rasmusson, *Democracy in the Making, Lessons Learned from Bosnia and Herzegovina*, Human Rights Report 2/2000 (Oslo: Norwegian Institute of Human Rights, 2000), p. 21.

The Education Department offers a good opportunity to develop a long-term strategy. Any serious educational reform will require five to ten years and a strategy covering such a period should be drafted.

### *Project Cycle Management*

In the Mission, no uniform system of project cycle management is used. Departments that manage projects, particularly the Democratisation and Human Rights Departments, use different systems, which were introduced on an *ad hoc* basis by the current Directors.<sup>98</sup>

It is rather discouraging to see that even though the Mission has existed for almost seven years now, no uniform project cycle management system has been introduced so far. It would be advisable to introduce one uniform project cycle management system throughout OSCE Missions and institutions. The following measures, which were already partially outlined in the 'OSCE Management Agenda' will be vital to this process:

- Budgets must be designed to operationalise Mission mandates;
- Activities should be directly related to the Mission mandates, as a way of implementing them;
- There must be a direct link between the specific objectives of Mission activities and the resources allocated under a budget;
- Budgets must be for more than one year;
- Each activity plan should have an exit strategy built into it, as well as a sustainability chapter;
- On each (major) activity/project/programme, a serious impact study should be conducted.

Project cycle management will enable the Missions to plan activities better over a longer period, evaluate the effectiveness of their own programmes, and determine how they have contributed to the fulfilment of the Mission mandate. Moreover, it allows the management to feed 'lessons learned' back into the design of follow-up activities. Moreover, as the turnover of personnel in the Missions is very high, it will assist better continuity of the programmes, even if the person working on a programme changes. Finally, it would contribute to the institutional memory of the organisation through useful reports. As the Mission is light on administration, additional expert personnel should be assigned for this purpose in a central Mission policy-planning and evaluation unit.

### *Autonomy of the Mission*

The OSCE Mission to BaH is very independent and (as we have seen earlier in the section on mandate dynamics) is more guided by the PIC and OHR than Vienna. There are, however, limitations to its manoeuvring space. The Permanent Council ultimately has to approve Mission budgets and thereby activities. However, within this global policy framework room to manoeuvre does exist. The HoM and

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<sup>98</sup> In the case of the Democratisation Department, a peculiar development occurred. In 1999, according to the then Head of the Department: 'The planning process and the planning tools were improved and strengthened with the introduction of the logical framework method'; see Elisabeth Rasmusson, *Democracy in the Making, Lessons Learned from Bosnia and Herzegovina*, Human Rights Report 2/2000 (Oslo: Norwegian Institute of Human Rights, 2000), p. 11. However, the subsequent Head of Department did away with the system, and the present Head of Department introduced his own project cycle management system. The Human Rights

the Departmental Directors are autonomous and operationalise central policy, and mandate decisions. This is the preferable situation, as they have the necessary expertise and are best acquainted with the situation on the ground. The PC in Vienna is kept informed about the activities in BaH through various channels: Mission reports from the Sarajevo office, visits from the Head of Mission and other BaH staff to Vienna and visits of the Vienna delegations to BaH.

The independence of the Mission increases the flexibility of the operation and enables the mandate to change if needed. The guidance from the PIC and Board of Principles assures coordination with other international actors on the ground. OSCE operations would be seriously hampered if the PC needed to discuss minor policy issues, or if the Secretariat attempted to micro-manage aspects of the Mission's work.

### *Mission Budget*

OSCE budgets are often only approved in November/December before the new budget year. This can create problems for the Missions if last-minute reductions are needed,<sup>99</sup> or if political obstacles cause a delay in budget approval, as occurred in 2002.

## **B: Human Resource Policy**

Both recruiting and retaining qualified staff is a key problem for the Mission. The commitment of member states to send good staff to the Mission is decreasing. Experienced staff often leave the Mission to join newer OSCE Missions, or to start work for other international organisations, such as the UN, which unlike the OSCE offer career opportunities.

An improvement of the old situation in recruiting staff has been the introduction of the Rapid Expert Assistance and Cooperation Teams (REACT) system. This system aims to enable 'OSCE bodies and institutions, acting in accordance with their respective procedures, to offer experts quickly to OSCE participating states'.<sup>100</sup> The system introduced a standardisation of the recruitment and staffing process. It digitised and standardised the requested information from each applicant. Moreover, it introduced a unified system of measuring to what extent applicants meet job requirements. It has made the recruitment process faster, easier and more transparent, at least for junior positions in the Mission. The system does not seem to function (yet) for the more senior positions, such as the (Deputy) Heads of Missions. Despite REACT, however, there is still much room for improvement in human resource management policy.

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Department Head introduced another system, as a PCM system was also lacking in that Department when she arrived.

<sup>99</sup> This is well illustrated with the OSCE Benefits Commission. This Commission became operational in 1998. It granted financial and legal aid to individuals trying their case in court. At the end of 1999, the Benefits Commission had more than 7,000 cases pending, of which more than 60 per cent were related to property. Totally unexpectedly, the programme was closed down at the end of 1999, when the Head of Mission decided to cut it. This decision was made during the budget negotiations in Vienna that took place in the middle of December 1999. Needless to say, this caused very acute problems for the 7,000 pending cases; see Elisabeth Rasmusson, *Democracy in the Making, Lessons Learned from Bosnia and Herzegovina*, Human Rights Report 2/2000 (Oslo: Norwegian Institute of Human Rights, 2000), p. 66.

<sup>100</sup> PC Decision no. 364.

### *Quality of Personnel*

- The quality of the seconded personnel is often unsatisfactory and unsuitable candidates are often proposed by delegations. This has often resulted in young and inexperienced staff, for example in human rights field positions;
- Although a verbal appraisal system exists, there is no systematic way of objectively evaluating the functioning of OSCE Mission personnel and feeding this into a central data bank;
- There is no systematic way of keeping track of former OSCE personnel, enabling the Missions to invite specific former well-functioning Mission members to return to a specific position in the Mission;
- Still too often, positions are politically traded off between delegations, instead of the best candidate for the job being selected. This results in the appointment of less competent but politically desirable persons. Although in principle a Mission can reject a candidate, de facto this raises tension with states on which the Mission relies for support.<sup>101</sup>

### *Continuity*

- The six-month **contract duration** is unfeasible. It creates a high level of turnover. A six-month contract is not a very tempting perspective if the recruited person already holds a satisfactory position.
- There is often uncertainty surrounding the **extension of contracts**. This hampers the ability of the Mission to plan activities and provide continuity. In some cases Mission members have even been withdrawn by their seconding states before they had fully served their contract.
- Often **positions are vacant** for an unacceptably long period after a Mission member has left. Only in very exceptional cases does an overlap occur between a departing Mission member and his/her successor.

### *Other*

- In the past, **some staff have complained about unfair treatment** by senior staff, and that in the absence of clear staff regulations they have no means to counter this.<sup>102</sup> Particular examples are:
  - No reasons have to be provided for laying off personnel;
  - A rather secretive investigation unit exists that looks into the conduct of staff without informing those under investigation;
  - No independent body exists that deals with labour conflicts.

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<sup>101</sup> A former Head of the Democratisation Department recalls instances in which attempts were made to force through candidates: 'Unfortunately there were delegations that ... exerted pressure to get candidates found unsuitable by the Democratisation Department accepted for positions in the Department. Having to fight against this kind of pressure represents an extra burden on the people in the field who are responsible for ensuring the high quality of the work, and should be thus avoided ... Candidates nominated should suit the profile that has been requested from the Mission'; see Elisabeth Rasmusson, *Democracy in the Making, Lessons Learned from Bosnia and Herzegovina*, Human Rights Report 2/2000 (Oslo: Norwegian Institute of Human Rights, 2000), p. 76-77.

<sup>102</sup> The Human Rights Department is an illustration. Irregularities were reported in the treatment of Petra Catz, former Head of Department; Cathy Niarchos and Dina Haynes, both former Directors General of the Human Rights Department. The absence of proper transparent human resource management procedures has facilitated this. Such procedures need to be urgently devised and standardised throughout the Mission.



- No uniform **debriefing procedure** exists, which would allow the Mission to learn valuable lessons for improving the work of the Mission.

At the core of many of the above-mentioned problems lies the OSCE's secondment system. Although often hailed as promoting much-desired flexibility, it is too burdensome for a Mission of long duration such as in BaH. As there seems to be no political willingness in Vienna to do away with this system, a set of measures needs to be taken to work within the present system.

### *National Staff*

Over 40 per cent of previously international positions in the Mission have been nationalised. Nationalisation is important for various reasons. It promotes local capacity-building, might facilitate handover to local authorities (if personnel decide to work for them), promotes continuity (as national staff tend to remain longer in the Mission) and cuts costs. Some have seen nationalisation of positions as the first logical step in handing over personnel to local authorities, and thereby supporting domestic capacity-building of authorities. This has been highly problematic in reality, mostly for salary reasons. The state only offers about 40 per cent of the OSCE salary level and is often unreliable in paying out salaries at all. This caused debate in two cases: the handover of the Ombudsmen and the Elections Secretariat staff. In both cases it was agreed that the staff would retain their former salary levels. It is unsure whether this will be sustainable, especially in the case of the Elections Secretariat, as OSCE contracts expire at the end of 2002. National recruitment was initially for the lower positions in the Mission, such as drivers, interpreters and secretaries. More senior, policy-making personnel were seconded. It would have been better to have a clear nationalisation policy from the beginning of a Mission, actively recruiting promising local personnel, also for more senior positions.<sup>103</sup>

### **C: [Analytical and Practical] Capacities**

The Mission has undertaken several initiatives in this field that can be applauded: the establishment of a training section and a central Mission document library. Moreover, a detailed *Mission Manual* has been written outlining relevant Mission procedures.

However, as follows for previous sections, the Mission is still insufficiently developing institutional memory. No proper programme evaluation is done, and the human resource policy is not very helpful in this respect either. The *Mission Manual* could be further elaborated with the introduction of staff regulations that conform to the ILO. Moreover, all activities should be part of wider initiatives for the organisation as a whole.

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<sup>103</sup> It should be determined whether each position can be nationalised. In the case of Human Rights Officers, it might be difficult for domestic personnel to be seen as impartial and they might not be taken seriously. It was also noted that some work might be dangerous for local personnel, or it might be difficult for them to find a job in the local community after engaging in certain sensitive work.

## **D: Coordination and Role of other OSCE Bodies**

### *Cooperation with the Host Government*

The Mission in BaH is atypical. It operates in a semi-protectorate, and the BaH government has had no significant influence on the contents of the OSCE's mandate and activities, or on the decision to extend its presence. However, this will have to change significantly after the 5 October 2002 elections as part of any OSCE exit strategy. It will be crucial to strengthen cooperation between the OSCE and BaH government, as many of the OSCE's current activities will need to be handed over to domestic authorities.

### *The Instrument of Special Representative and HCNM*

In the case of a strong and large Mission, the instrument of Special Representative is not useful. It is for this very reason that the HCNM has not developed any activities in Bosnia, as sufficient capacity was already present in the Mission. Special Representatives are only useful when there is no (strong) field presence and when there is a very specific task to accomplish. Otherwise the Special Representative might actually get in the way of the Mission, as parties can play off the visiting delegation and Mission.

### *Cooperation with Other IOs*

The earlier section on policy coordination examined how the OSCE is part of a larger international effort to implement the GFAP under the guidance of the Peace Implementation Council. Cooperation with other IOs is of particular importance for the OSCE Mission, as it has no convincing power instruments or incentives. Instead it has to make use of those of other IOs. Cooperation between the OSCE and other international actors, particularly the OHR, has not always been easy. Particularly in the first few years, the OSCE and OHR were often openly competing with each other.<sup>104</sup>

Much has improved however. With the recent handing-over of human rights and military obligations from the OHR to OSCE, responsibilities have become clearer. Moreover, with the departure of UNHCR and UNMIBH, the number of actors is decreasing, making coordination easier. As already stressed in the section on streamlining, cooperation with the other international organisations needs to be further improved under the new structures.

Looking to the future, it will be particularly important to increase intensive working relationships among the Council of Europe, European Union, NATO and the OSCE. While the OSCE should be starting to think of an exit strategy, BaH recently entered the Council of Europe and the European Union is working on a (long-term) entry strategy. In fact, the new High Representative is double-hatted, as he is the first to be also appointed as the EU representative. NATO is wavering with PfP membership.

As we have seen, future European accession is the main political carrot that the IC has at its disposal to convince domestic politicians to cooperate. The OHR and OSCE repeatedly refer to the

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<sup>104</sup> In 1999 for example, both the OHR and OSCE had staff working on the development of a new Election Law. At a certain point the two respective persons in charge were no longer even speaking to each other.

necessity for BaH to move closer to Europe.<sup>105</sup> Almost all tough decisions have been forced through by the High Representative, making reference to membership of the CoE and future EU membership. Moreover, European integration is a massive voter concern.<sup>106</sup> The OSCE should take due note of this, and see how it can assist BaH to meet CoE/EU/PfP accession criteria more easily in those areas in which it is active. This is already de facto to a large extent policy, as the present Task Forces under the streamlining process (of which the OSCE is an integral part) are meant to ensure that the work of the IC is aimed at integrating BaH into European structures following the requirements of the Council of Europe, the EU Road Map and the EU Stabilisation and Association Process. It should be noted, however, that the OSCE should not be reduced to a service organisation of the three IOs mentioned above and that Russian sensitivities in this regard should be taken seriously.

### *Inter-Mission Cooperation*

As there is no strong central knowledge base in the wider organisation, the Mission to BaH has been crucial in developing the strategy for the OSCE's Missions to Croatia, Kosovo and Macedonia. Staff from the BaH Mission have travelled to Vienna, Zagreb, Pristina and Skopje to develop Mission policy and activities. Many of the experienced staff of the Mission to BaH have taken up positions in the newer Missions. Although this support should be applauded, it lays bare one of the problems of the Organisation: the existence of a *strong* central unit that can assist in setting up new Missions. Structures exist in Vienna, but are currently understaffed (if a leading role is expected from them). While the Secretariat needs to be further strengthened to develop the logistical, planning and administrative aspects of (new and existing) Missions, ODIHR is currently in the process of developing a knowledge base in the human dimension.

To coordinate Mission policy and exchange experience, some mechanisms have been established. The Conflict Prevention Centre (CPC) is organising so-called 'Heads of Mission' meetings and ODIHR has established regional meetings to coordinate Balkan Missions. An interesting example of inter-Mission cooperation was the joint statement on refugee return in the Balkans by the Heads of Mission of Bosnia, Croatia and Yugoslavia (see section on the Human Rights Department).

### *Secretariat, Secretary-General and the Conflict Prevention Centre*

The present capacity of the OSCE Secretariat is insufficient to provide the necessary backing for Missions. In the CPC, for example, only one person deals with the Mission to BaH. Moreover, at present the capacity of the CiO is too decisive in determining the strength of the Organisation as a whole. It is clear that the Secretariat should be strengthened to be better able to support the CiO and Missions in administrative, logistical and management issues. At present the relationship between the Mission and the CPC is problematic and strong tension between the two has been observed. The Secretariat, furthermore, would do well to design a uniform debriefing system for OSCE Mission staff in order to collect lessons learned from departing personnel. On the other hand, strong frustration was

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<sup>105</sup> For example, in a recent address to the Permanent Council, on 4 July 2002, Beecroft ended his speech with the words: 'The Mission will continue to work with its partners to develop an environment in which a stable government can lead its citizens decisively towards Europe'.

<sup>106</sup> An opinion poll in early 2002, conducted by the NGO NDI, shows that Federation voters' approval rating for the 'Alliance for Change' is highest when it concerns (1) the membership of the Council of Europe, (2) 'bringing BaH closer to Europe', and (3) 'cooperation with the international community'. In the RS, voter approval is highest for the current government for 'improved relations with the international community'.

obvious with the ‘micro-management’ by the Vienna Secretariat. While the Secretariat should focus on administrative issues, policy-making autonomy should remain with the Mission itself and the PIC.

### *ODIHR*

The OSCE has a serious problem in developing institutional memory. No central database exists of lessons learned by the Mission. It will therefore be crucial to develop a centralised knowledge base. Such a knowledge base should logically be placed in Vienna. However, until this is developed, it would make sense to support the ongoing ODIHR initiative to develop a ‘lessons learned’ database in the human dimension. Further strengthening this ongoing initiative should be considered to ensure that a central actor within the OSCE builds institutional memory on the basis of lessons learned in the field of the human dimension. A similar system should be developed for activities in the other dimensions.

At present expertise moves from Mission to Mission, with expertise vested mostly in seconded staff. Much of this knowledge is disappearing now that the existing Missions are scaling down and experienced personnel are leaving for other (international) organisations. If the knowledge base is strengthened, it can (better) assist the Missions in south-east Europe to develop a much-needed regional policy in shared interest areas, such as refugee return and domestic capacity-building, etc.

## Annexe: List of Interviewees

1	Avdic	Senad	Slobodna Bosna	Sarajevo
2	Backer	Peter Bas	OHR	Sarajevo
3	Bakker	Heleen	OHR	Sarajevo
4	Balagus	Michael	NDI	Sarajevo
5	Bean	Keith	OSCE	Banja Luka
6	Beecroft	Robert	OSCE	Sarajevo
7	Beslagic	Selim	Tuzla Canton	Tuzla
8	Binda	Franceska	OSCE	Sarajevo
9	Bishop	Jo-Anne	OSCE	Sarajevo
10	Blatter	Werner	UNHCR	Sarajevo
11	Bryant	Roger	OSCE	Banja Luka
12	Carrico	Renee	OSCE	Sarajevo
13	Catz	Petra	frm. OSCE	Amsterdam
14	Cavic	Dragan	SDS	Banja Luka
15	Danza	Gabriella	OSCE	Sarajevo
16	De Vries	Jeroen	ODIHR	Warsaw
17	Derajic	Svjetlana	SDP	Sarajevo
18	Doyle	Michael	ICG	Sarajevo
19	Drewienkiewicz	John	OSCE	Sarajevo
20	Finci	Jacob	Jewish Community	Sarajevo
21	Frech	Renate	OSCE	Banja Luka
22	Gagnon	Georgette	OSCE	Sarajevo
23	Gerts	Lex	Netherlands Embassy	Sarajevo
24	Ging	John	OSCE	Sarajevo
25	Gordon	Eleanor	OHR	Sarajevo
26	Grebo	Zdravko	Law Centre	Sarajevo
27	Harbaugh	Bridget	OSCE	Sarajevo
28	Hennis	Marco	NL Ministry of Foreign Affairs	The Hague
29	Hovenier	Jeff	US	Vienna
30	Hryshehshyn	Michael	OSCE	Sarajevo
31	Ivanic	Mladen	BaH	Banja Luka
32	Kalinic	Dragan	SDS	Banja Luka
33	Kebo	Mirsad	SDA	Sarajevo
34	Keco-Isakovic	Emina	BaH	Vienna
35	Kerawinkler	Franz	OSCE	Vienna
36	Kieffer	Claude	OHR	Sarajevo
37	Kolenovic	Fehada	SDA	Sarajevo
38	Korac	Lidija	BaH	Sarajevo

39	Mahoney	Katherine	OSCE	Sarajevo
40	Malkoc	Jasna	frm. OSCE	Sarajevo
41	McAndrew	Tom	OSCE	Sarajevo
42	McPhail	Stephanie	IJC	Banja Luka
43	Milinkovic	Branislav	YU Delegation OSCE	Vienna
44	Ninkovic	Ranka	IBHI	Sarajevo
45	Nobilo	Mario	Croatia	Vienna
46	O'Leary	Aidan	OSCE	Sarajevo
47	Owczarek	Krzysztof	OSCE	Sarajevo
48	Paganini	Robert	OSCE	Vienna
49	Paleksic	Vesna	OSCE	Sarajevo
50	Panadero	Miquel Angel	OSCE	Vienna
51	Papic	Zarko	IBHI	Sarajevo
52	Pecanin	Senad	DANI	Sarajevo
53	Peters	Hans Jochen	German Embassy	Sarajevo
54	Polmann-Zaal	Hannie	OSCE	Vienna
55	Pudarcic	Svetozar	SDP	Sarajevo
56	Radovanovic	Nikola	BaH	Sarajevo
57	Rees	Madeleine	UNHCR	Sarajevo
58	Roche	Ralph	IJC	Banja Luka
59	Schiller	Fredrik	OSCE	Vienna
60	Schroeder	Holgeir	EC	Sarajevo
61	Sehic	Vehid	TCF	Sarajevo
62	Seraydarian	Souren	UNMIBH	Sarajevo
63	Shakhmetov	Andrei	OSCE	Sarajevo
64	Simosas	Stefan	EC	Sarajevo
65	Stonestreet	Jonathan	OSCE	Sarajevo
66	Stovel	Jeanette	ODIHR	Warsaw
67	Tuccinardi	Domenico	OSCE	Sarajevo
68	Van Ees	Roelof	NL Delegation OSCE	Vienna
69	Vrbosic	Josip	Croatian Embassy	Sarajevo
70	Wheeler	Mark	ICG	Sarajevo
71	Woltmann	Dieter	OSCE	Sarajevo

*Note: Not all interview partners have been listed.*