

## The OSCE Mission to Bosnia and Herzegovina<sup>1</sup>

### *Introduction*

The OSCE Mission to Bosnia and Herzegovina has already been in operation for over six years now. Because it was one of the very first large OSCE long-term missions, it has often been compared to an “experimental laboratory”, particularly during its initial phases. In fact, the Mission did indeed have to cope with unexpected situations and responsibilities in past years. Moreover, it has been operating in a unique context. The international organizations in Bosnia and Herzegovina, which alongside the OSCE Mission have been tasked with the construction of a stable and democratic state under the rule of law, are co-ordinated by the High Representative. He was furnished with extensive authority in 1997 in the form of the so-called “Bonn Powers”. These authorize the High Representative to dismiss politicians and other persons holding public office who he found “to be in violation of legal commitments made under the Peace Agreement or the terms for its implementation”.<sup>2</sup> Furthermore, the High Representative is authorized to enact legal decisions when the legislature in Bosnia and Herzegovina is unwilling or unable to do so. In this manner, considerable influence and power have been guaranteed, which can, however, also lead to resistance against the international community or at least to a “culture of dependency”. Thus, up to the end of the year 2000, due to party political considerations, particularly the nationalist parties were often not prepared to adopt unpopular but necessary laws. Instead, they relied on the High Representative to issue them as decrees. In this manner, they hoped to escape political responsibility. After all, one should not overlook that the international community in Bosnia and Herzegovina was faced with the enormous task of simultaneously reviving an economy destroyed by war and assisting a post-socialist country in the transition to a market economy and political pluralism. Enormous material support was necessary for reconstruction. Parallel to this, the political framework conditions had to be created for the return of refugees and internally displaced persons as well as setting up democratic institutions and structures founded on the rule of law in Bosnia and Herzegovina. In the past few years, the infrastructure of the country has been built up, the security situation stabilized, the property laws have to a large extent been completed and the return of refugees and displaced persons has accelerated. Considerable progress has also been made on reconstruction, although the economic situation in Bosnia and Herzegovina still looks rather

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1 This article covers the developments up to the beginning of August 2002.

2 Office of the High Representative, Peace Implementation Council, PIC Bonn Conclusions, Bonn, 10 December 1997, at: [http://www.ohr.int/pic/?content\\_id=5182#01](http://www.ohr.int/pic/?content_id=5182#01).

gloomy and unemployment is high (according to the Statistical Offices of both entities, the unemployment rate was 40 per cent at the end of 2001<sup>3</sup>). Nevertheless, the essential framework conditions for a functioning democracy and economy have already been created.

In general, the Mission has been able to react to new political and socio-economic conditions flexibly and commensurably, not least thanks to its broad mandate, which was issued on 15 December 1995 based on the General Framework Agreement for Peace in Bosnia and Herzegovina. The actual task of the Mission has always been to promote the building of democratic institutions and to contribute to protecting human rights, implementing arms control agreements and military stabilization. At the beginning, the focus was primarily on implementing and monitoring the elections in Bosnia and Herzegovina. However, it soon became apparent that although the implementation of fair and free elections was an essential basis for the construction of a legitimate democratic state, it was only the starting point of a long-term democratization process. It was clear that the Mission would also have to pursue a “bottom-up” approach and that democracy would have to be strengthened even more at its basis - namely the elected politicians, citizens and NGOs.

With the benefit of hindsight, it is possible to conclude that in the early days of the international community’s involvement in post-Dayton Bosnia and Herzegovina, there was an over-emphasis on organizing elections at the expense of a deliberate and sustained institution-building strategy. At the time, the OSCE and the broader international community were bound by the Dayton timeline, which stipulated that elections were to be held no later than nine months following the signing of the Peace Agreement. While the elections did take place on schedule (...) there were considerable costs involved in holding elections so soon after the end of hostilities (...) More generally, the institutional framework which is often taken for granted in Western democracies was largely lacking in Bosnia and Herzegovina at the time of the 1996 elections. Under these circumstances, the expectation that elections would allow for the early withdrawal of the international presence in Bosnia and Herzegovina, and for the full transfer of political authority to the country’s newly-elected politicians, proved to be overly optimistic.<sup>4</sup>

Therefore, the Mission reinforced and extended its efforts to establish a new democratic environment with the help of the activities of its Human Rights

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3 See also the ICG Report No. 151, *Bosnia’s Precarious Economy: Still not open for Business*, of 7 August 2001, which deals critically with the role of the international community regarding economic development in Bosnia and Herzegovina.

4 Robert L. Barry, *After the Bombing: The OSCE in the Aftermath of the Kosovo Crisis*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), *OSCE Yearbook 1999, Baden-Baden 2000*, pp. 49-57, here: pp. 52-53.

and Democratization Departments and, parallel to the implementation and monitoring of elections, it concentrated primarily on building democratic institutions and promoting civil society in Bosnia and Herzegovina.

In the recent past, the year 2000 was a significant turning point in the further development of the activities of the Mission to Bosnia and Herzegovina. The democratic paradigm shift in the neighbouring countries of Yugoslavia and Croatia, the far-reaching constitutional judgement that recognized equal collective rights for the three “constituent peoples” in Bosnia and Herzegovina (Bosniaks, Bosnian Croats and Bosnian Serbs) also in the two entities,<sup>5</sup> as well as ultimately the election success of multi-ethnic parties in November 2000 have also influenced the Mission’s fields of activity. Thus the reform-oriented and moderate new political leadership places importance on partnership relations with the international community. It resists being patronized as a “quasi-protectorate” and demands more self-responsibility. Nevertheless, it does expect the active support of the international community in its endeavours to further the democratization process.<sup>6</sup>

The international community has adapted itself to the changed political environment and shifted its focus. Step by step, they have endeavoured to disengage Bosnia and Herzegovina from depending on international agencies and to restore self-responsibility to the national authorities. In the Mission, this is clearly reflected in the area of elections.<sup>7</sup> After six election rounds between 1996 and 2000, which the OSCE regulated and financed as well as organized and monitored to the last detail, in October 2002, the authorities of Bosnia and Herzegovina were to conduct the elections themselves for the first time since the Dayton Peace Agreement was adopted.

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5 The state of Bosnia and Herzegovina is composed of two so-called entities, the Serb Republika Srpska and the Bosniak-Croat Federation of Bosnia and Herzegovina. Originally, only the constitution of the state of Bosnia and Herzegovina gave an equal role to the three so-called “constituent peoples” of the state, while in the constitution of the Republika Srpska only the Serbs, and in the constitution of the Bosniak-Croat Federation only the Bosniaks and the Croats were designated as “constituent peoples”. In July 2000, the Constitutional Court of Bosnia Herzegovina ruled, that also in the entities, all three peoples were equally constituent and the entity constitutions were to be amended correspondingly.

6 The former Chairman of the Ministerial Council of Bosnia and Herzegovina, Zlatko Lagumdžija, who was simultaneously the Chairman of the multi-ethnic Social Democratic Party as well as being Foreign Minister, repeatedly made the following statement, the gist of which was: “We need the support of the international community at the expert level, but we do not need anyone to make decisions for us any longer. The role of the international community should be limited to helping us, not working for us, thinking for us and making decisions for us.” Meeting of the Steering Board of the Peace Implementation Council, 13 September 2001, quoted from the daily *Oslobodjenje* (author’s translation).

7 Cf. OSCE, Permanent Council, Decision No. 350, PC.DEC/350, 18 May 2000.

In the elections in November 2000, for the first time in the history of Bosnia and Herzegovina, the three nationalist parties, who had been politically dominant up to then - the Bosniak Party of Democratic Action (SDA), the Croatian Democratic Union (HDZ) as well as the Serbian Democratic Party (SDS) -, did not emerge as clear winners. With the support of the international community and after lengthy negotiations, the multi-party coalition, with the exclusion of the nationalist parties, "*Alijansa za Promjene*" ("Alliance for Change"), was created in January 2001. This Alliance includes ten parties and is led by the multi-ethnic Social Democratic Party (SDP) and the Party for Bosnia and Herzegovina (SBIH). With its narrow majority, this Alliance set up a reform-oriented government at the federal level for the first time in ten years. At the state level, the Alliance needs the support of moderate parties of the Republika Srpska. There, the economics professor Mladen Ivanic, Chairman of the relatively new reform-oriented Party for Democratic Progress (PDP), set up a so-called "expert government".

Despite continuing economic stagnation and empty coffers, the "Alliance for Change" was able to achieve considerable successes at all levels. It was able to implement important laws and projects notwithstanding the resistance (to differing degrees) of the nationalist parties - in particular, the HDZ boycotted state and federal institutions. An important step forward was the adoption of the Permanent Election Law by the Parliament of Bosnia and Herzegovina in August 2001. Thus, one of the most important prerequisites for Bosnia and Herzegovina's admission to the Council of Europe was fulfilled. Previously, draft legislation had failed twice due to the fact that the nationalist parties governing at the time were unable to compromise. The Election Law adopted is based on a draft drawn up in 1999 by a group of international and national experts with significant co-operation from the OSCE Mission. It provides, *inter alia*, a quota for women candidates, direct elections in regional constituencies (multi-member constituencies) and the option of an open list system. Based on the Declaration of the Peace Implementation Council (PIC) of May 2000, the Mission had already incorporated these improvements in its provisional rules and regulations for the general elections in the year 2000.<sup>8</sup> The Parliament of Bosnia and Herzegovina added a three per cent threshold to the Law. Furthermore, a new regulation was included according to which internally displaced persons and refugees who were still illegally occupying foreign property could only vote at their pre-war residence. The change in the electoral procedure for elections to the House of Peoples of the Federation, which had been introduced by the OSCE-led Provisional Election Commis-

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8 Cf. Office of the High Representative, Peace Implementation Council, Declaration of the Peace Implementation Council, Brussels, 24 May 2000, at: [http://www.ohr.int/pic/default.asp?content\\_id=5200](http://www.ohr.int/pic/default.asp?content_id=5200).

sion (PEC) shortly before the elections in November 2000 and which had in the end driven the HDZ into its persistently confrontational course against the international community and the “Alliance for Change”, was not accepted. Furthermore, certain points in the adopted version of the Election Law remained open (e.g. the procedure to elect the Presidency of the Republika Srpska and the Federation as well to the House of Peoples of the Federation) as one did not want to anticipate the implementation of the constitutional judgement on the collective equal rights of the three constituent peoples in all of Bosnia and Herzegovina, which at the time the Election Law was adopted had not yet taken place, but would have had a direct impact on the procedure to elect the above-mentioned organs.

In the meantime, these “gaps” have been filled, as the constitutions of the entities have recently been changed according to the judgement ruled by the Constitutional Court. This brought a lengthy process, which in its end stages received much attention from the media, to a successful conclusion. It began in July 2000 with the pronouncement of the judgement that stated that the principle of collective equal rights for the constituent peoples was not only valid for the entire state of Bosnia and Herzegovina, but must also be anchored in the constitutions of the entities. Detailed regulations on the interpretation and implementation of this judgement were, however, left in the hands of the entity Parliaments. Because the negotiations proved difficult, the High Representative issued a decree in January 2001 establishing constitutional commissions in the entities to develop proposals for the implementation of the judgement. However, the constitutional consultations conducted separately in the Republika Srpska and the Federation came to a standstill as the Bosniak and Croat parties insisted on “symmetrical” solutions in both entities. This demand, in turn, was met with resistance from the Serb parties. Thus, upon the initiative of the High Representative, and under his chair, the chairmen of the most important parties in Bosnia and Herzegovina began negotiations. By negotiating for over 100 hours, they reached a compromise set forth in the Mrakovica-Sarajevo Agreement of 27 March 2002, which was presented to the entity Parliaments for discussion and vote. In the end, the High Representative was forced on 19 April 2002 to make use of his right to issue directives as a further delay in the process would not have allowed the election to take place on the date scheduled, 5 October 2002. He made the amendments to the constitution of the Federation by issuing a decree because without the approval of the SDA and HDZ here the necessary two-thirds majority had not been reached. Also, unacceptable amendments and technical defects were removed from the constitutional changes adopted by the Parliament of the Republika Srpska. Nevertheless, this result can be rated as an important accomplishment for the moderate forces in Bosnia and Herzegovina. Key politicians, acting on their own responsibility, negotiated the constitutional reform, which was approved by a broad, although insufficient, parliamentary majority. In this manner, they gave evidence of pragmatism, a grow-

ing ability to reach a consensus and political maturity, which in past years had all too often been lacking.

On 24 April 2002, Bosnia and Herzegovina was finally admitted to the Council of Europe as its 44th member after it had fulfilled the major part of the admission requirements. Upon accession, they assumed responsibility to fulfil 91 additional requirements in the course of the next three years.

### *The Role of the International Community in the Changed Political Environment of Bosnia and Herzegovina*

The positive political changes in Bosnia and Herzegovina and in the region as well as declining aid funding for Bosnia and Herzegovina also induced the international community to rethink their role there. In 2001, the OSCE Mission closed its Departments of Media Affairs and of Political Analysis. Starting from mid-2001, international organizations dealing with the area devoted themselves to reorganizing their activities. The goal was to get the responsibilities of the international community in Bosnia and Herzegovina in focus, improve co-operation between individual organizations and thus ultimately structure work more efficiently and effectively. Finally on 28 February 2002, a concept for restructuring the international community in Bosnia and Herzegovina was presented to the PIC, which was supported by all those involved and accepted by the PIC.

The heads of the most important international organizations active in Bosnia and Herzegovina (the OSCE, SFOR, UNMIBH, IPTF, UNHCR, European Council, World Bank and IMF) meet for weekly consultations and, under the chairmanship of the High Representative, co-ordinate their strategic goals. To exclude unnecessary overlaps and optimize co-operation between international agencies, four specific task forces were established in the areas of rule of law, economics, institution building, as well as return and reconstruction. In each of the four areas clear-cut goals were defined to facilitate orientation and self-regulation. Thus, synergies are to be created and redundancies eliminated. The fields of function of the task forces are based on the three strategic key priorities already adopted by the PIC in May 2000: economic reform, accelerating return of refugees and displaced persons and implementation of property rights as well as consolidating and reinforcing democratic institutions, particularly at the state level.<sup>9</sup> To achieve these goals, it is indispensable that the following be undertaken: the fight against corruption, independence of the judiciary and the establishment of rule of law foundations in Bosnia and Herzegovina.

The OSCE Mission is a permanent member of three of the four task forces, i.e. those in the areas of return and reconstruction, institution building, and the rule of law. In the Rule of Law Task Force, the Mission has responsibility

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<sup>9</sup> Cf. Declaration of the Peace Implementation Council, cited above (Note 8).

for the area of human rights. In the Institution-Building Task Force, the Mission holds the co-chairmanship and is responsible for the issues of institution building and civil society as well as defence and security together with the SFOR. This division of labour is a reflection of the OSCE Mission's mandate, which comprises activities in the areas of democratic institution building and promoting human rights as well as security.

#### *OSCE Activities in Bosnia and Herzegovina - Tasks, Goals and Developments*

The Mission is structured according to regional as well as functional aspects. Horizontally, it is made up of the Head Office (in Sarajevo), four regional centres (Banja Luka, Tuzla, Sarajevo, Mostar) and 24 field offices. The four programme departments, Elections, Democratization, Human Rights and Security Co-operation, take into account, alongside administration as well as press and public information, the functional aspect of the Mission's work. Its strong presence in the field, a unique advantage over other international organizations in Bosnia and Herzegovina, is indispensable for operational implementation of programmes at the local level.

#### *Elections*

As already mentioned, a decisive change has taken place in the election area. After the adoption of the Election Law in August 2001, an independent national Election Commission was set up. It is headed by a national chairman and is made up of one representative from each of the three constituent peoples and each of the minorities in Bosnia and Herzegovina as well as three international members (a representative of the High Representative and two representatives of the OSCE). The national Election Commission has taken over the responsibilities and tasks of the Provisional Election Commission, which had organized and monitored all previous elections in Bosnia and Herzegovina. Up until the end of 2002, the Election Department of the Mission will offer professional as well as material support. Furthermore, the national Election Commission has an experienced professional secretariat at its disposal with highly qualified local employees who had previously worked for the Mission. A smooth transition and the implementation of the elections on schedule on 5 October 2002 is thus guaranteed. At the end of 2002, the Mission will have completed its mandate in the area of elections and close its Elections Department.

The Democratization Department of the OSCE Mission deals with problems in society caused by conflict and transition and offers technical assistance and expertise to solve them. After the 2000 elections, Mission programmes and projects were aimed increasingly at reinforcing the democratic self-understanding of representatives elected to public office as well as strengthening their awareness of their responsibilities towards their voters. In the spirit of the so-called ownership concept, which entails politicians in Bosnia and Herzegovina making the problems of the country their own and solving them by taking their own responsibility, the Mission has developed mainly operational programmes, which are supportive and oriented towards process.

This includes the “Good Governance Programme”. Citizens are given the motivation to participate more actively in the decision-making process. Public administration and government are to be empowered to solve the problems facing them more professionally and efficiently. “Tailor-made” training seminars and experts’ advice are to convey know-how that provides qualifications in, for example, competent budgeting or needs- and resource-oriented development planning. By teaching citizens to become actively involved and office bearers to reinforce transparency and accountability, mismanagement and corruption are prevented. Because of the limited financial means available in Bosnia and Herzegovina, this is of immense importance.

The Good Governance Programme is divided into two components: the “Municipal Infrastructure Finance and Implementation Project” (MIFI) and the “Cantonal Administration Project” (CAP). The MIFI Project is being implemented at the municipal level. It combines intensive training programmes with on-site assistance on public budgeting, strategic planning, infrastructure and development planning as well as parliamentary work procedures. Citizens are instructed on how to become actively involved in decision-making processes in their community. A concrete measure was taken, for example, in Srebrenica:<sup>10</sup> Of the 25 members of the municipal council in Srebrenica, 13 had had no experience in municipal work at all. Therefore, the OSCE Democratization Office in Srebrenica developed an extensive assistance programme. A Senior Public Finance Advisor from the Democratization Department conducted a training seminar for members of the executive, administrators for budgetary issues and municipal council members, which dealt in great detail with budgetary issues. In addition, a workshop on budgetary planning was offered at which the mayor and the municipal council participated as well. Negotiations were begun with representatives of the trade unions to find a realistic formula for adapting wages and salaries to the municipal budget. One was able to decrease the original budget, which had been based on an illusory estimate of expected municipal income, by 50 per

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10 Cf. OSCE Mission to Bosnia and Herzegovina, *Democratisation, Semi-annual Report 2001*, at: [www.oscebih.org/democratisation/download/semi\\_annual\\_I-VI-01\\_eng.pdf](http://www.oscebih.org/democratisation/download/semi_annual_I-VI-01_eng.pdf).

cent and to come to a framework agreement with representatives of the trade unions.

The MIFI Project was started in 1998 in 35 of the 147 municipalities of Bosnia and Herzegovina. The fact that also “hardliner” communities like Foca/Srbinje or Capljina also endeavoured to be included in this project is evidence of the acknowledged benefit of the programme for the municipalities. There is so much interest by the municipalities in the project that the Mission cannot satisfy demand. A not inconsiderable side effect of this project has been the improvement of the information exchange and co-operation between various municipalities beyond ethnic and political borders.

The experiences with the MIFI Project in the Federation taught us that many problems can only be solved at the next higher administrative level, the cantons. Therefore in 2002, the Mission initiated the Cantonal Administration Project (CAP). It was directed at the executive as well as the legislative authorities in the cantons. This project was also primarily to promote transparent, responsible and professional conduct of governments and administrations as well as the active involvement of citizens. Office bearers’ awareness is to be sharpened to the fact that they are accountable to citizens and that they are obliged to act in the public interest. Like MIFI, technical know-how and advice are offered in order to structure public administration and the ministries on a more cost-effective basis and more efficiently. Since the beginning of the project, canton budgets have, for example, actually been reduced by an average of about ten to 20 per cent. The CAP programme is currently being conducted in five of the ten cantons in the Federation. Because of the positive resonance this project has received, the Mission will extend the offer to other cantons and in addition improve the co-operation between the cantons and with the Federation.

Furthermore, the Mission organized training projects for Members of Parliament and the parliamentary staff of the state of Bosnia and Herzegovina. In collaboration with foreign Parliamentarians, professional expertise and practical knowledge, primarily in the areas of rules of procedure, committee work and control of the government are conveyed to the participants. This programme has improved the quality of parliamentary work enormously and thus strengthened this institution at the state level.

Eleven Political Resource Centres (PRCs) located across the entire country, which are operated by local directors, provide meeting rooms and office infrastructure to political parties. These PRCs offer training programmes to party members that are designed to promote their understanding of their democratic role in society and an awareness of their responsibility to the voters. During the pre-election period, seminars are offered providing voters with information on the election and voter registration. Trainings and programmes have also been increasingly directed towards the youth organizations of the political parties.

Experience and surveys have shown that there is an alarming amount of frustration and apathy among the young people in the politics and society of Bosnia and Herzegovina.<sup>11</sup> Therefore, the OSCE Mission has placed a new focus on youth work in the framework of its activities on building a civil society. In 2001, it initially conducted the successful media and poster campaign “*Mi to možemo*” (“We can do it”), which was designed to motivate young people to take their future into their own hands and become actively involved in the formation of their country. The campaign was supplemented with creative competitions and discussions with prominent local politicians. The Mission was successful in making the public clearly aware of this topic and in inducing the political parties to have an ear for their younger voters. Another success was that after the campaign had been completed, local NGOs took over and continued it on their own.

At the beginning of 2002, the Mission introduced the “Successor Generation Initiative” (SGI). Initially, the SGI appeals to a small select number of committed young people under the age of 30, who have to a large extent remained unburdened by the events of the war and its rhetoric and have the potential to contribute decisively to shaping the future of Bosnia and Herzegovina. Through specific training programmes in the areas of economics, politics, education and the media, an attempt is being made to create and network a new elite and prepare them for leadership tasks in political and societal life.

### *Human Rights*

In connection with youth work, the area of education has moved increasingly into the foreground. Although in the course of the past few years there has been some progress, due to the fact that the educational system is of enormous importance for the future of the country, the endeavours in this area must be intensified significantly. It is indispensable for the further development of the country that an educational system be created which matches European standards and is not exclusively oriented according to ethnic principles. A modern efficient educational system not only promotes the economic perspectives of the country, but also has a conciliatory effect and is a prerequisite for the sustainable return of refugees and displaced persons to their pre-war residences. The Human Rights Department in the Mission to Bosnia and Herzegovina has been devoting increasing attention especially to the latter goal, the creation of just and fair basic conditions, which allow returnees, in particular the so-called minority returnees, to live in their pre-war residences and have equal rights with their neighbours.

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11 For example, 97 per cent of the approximately 660 Parliamentarians in Bosnia and Herzegovina are over 30 years old. Although eight per cent of the 18 to 30 year-olds are party members, only one per cent of all representatives of this age group in Bosnia and Herzegovina, which after all makes up 20 per cent of the voters in the country, believe they can influence party politics. Cf. Youth Information Agency Bosnia and Herzegovina, Special Report on Youth Policy Development in BiH 2001.

The Human Rights Co-ordination Centre, in which all international organizations that are dealing with the implementation of Annex 6 (Human Rights) and Annex 7 (Refugees and Displaced Persons) of the General Framework Agreement collaborate (Office of the High Representative/OHR, OSCE, UNHCHR, UNHCR as well as the International Court of Justice and the Council of Europe), as recently as April 2002 confirmed that the “sustainable return” of refugees was their highest priority in 2002. Other priorities in this area are: the educational system, police and judicial reform, strengthening national human rights organizations as well as the effectuation of minority rights and the fight against discrimination. The Mission with its broad field presence plays an important role in achieving these goals.

However, the Human Rights Department continues to focus its work on promoting the return of refugees and internally displaced persons. The property laws were for the most part completed with the adoption of a reform package in a decree by the High Representative in December 2001. Now, the international community is paying particularly close attention that the basic legal framework conditions created are realized rapidly. The OSCE Mission and the OHR, the Office of the UNHCR, UNMIBH and the Commission for Real Property Claims (CRPC) are in the process of defining common strategic goals on the political level, are preparing specific action and are providing for implementation at the local level within the framework of the “Property Law Implementation Plan” (PLIP). They are monitoring the authorities responsible for the return of private real estate to ensure that they proceed according to fair and equal principles and that they process the applications for the return of property in strict chronological order. When the authorities in question consciously delay the application process, they are given a reminder that they are to fulfil their legal obligations. This is particularly true in cases where alternative accommodation must be provided; in these cases alternative housing must be provided for all citizens who are forced to leave an illegally possessed living space so that the original owner can return, but who do not have any other place to move into.

Visible results were achieved through the consistent execution of the laws.<sup>12</sup> The return process was accelerated considerably in 2001, in particular, the number of minority returnees increased significantly. In total, of the two million refugees and displaced persons up to now about 800,000 have returned to their pre-war residences, including about 200,000 minority returnees, i.e. refugees and displaced persons who have returned to areas now dominated by one of the three ethnic groups.<sup>13</sup> Now more care must be taken to ensure a

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12 According to PLIP statistics (as of: June 2002), 54 per cent of the applications for property return had been successfully processed. In the Federation 58 per cent of the applications have been completed, i.e. of the 142,000 families who had filed an application, nearly 83,000 were given back their ownership rights. In the Republika Srpska, the figure is 48 per cent or 52,000 of the 109,000 applications.

13 The UNHCR reported 98,865 returnees in the year 2001 of which 92,061 were minority returnees. This is equivalent to a 36 per cent rate of increase in comparison to the previous year and a doubling of the number of minority returnees in comparison to the year 1999.

sustainable return of refugees. The same access to employment, education, the health system, social security (e.g. pensions) as well as the energy and electricity supply must be guaranteed. The OSCE Mission participates in working groups of the international community pushing forward to solve the problems in the above-mentioned areas at the political level. Furthermore, it monitors the situation at the local level with its strong field presence. In addition, the Mission has established specific programmes to prevent discrimination in the employment and education areas. In April 2002, a programme was started targeted at reviewing the situation of minority pupils and teachers at their pre-war places of residence and for this purpose information on the school and educational system is being compiled. This overview will enter into the development of national guidelines to monitor the "Interim Agreement on Accommodation of Specific Needs and Rights of Returnee Children". Moreover, in the year 2001, the Mission developed two programmes targeted at guaranteeing equal employment opportunities for all regardless of their belief, sex or ethnicity. The Mission offers information and know-how to contribute to fair practices in job recruitment and employment. With support of local stakeholders, it is endeavouring to reduce prejudice, in particular ethnic discrimination. Furthermore, these projects serve to obtain an overview of the current situation on the employment market as to fair and equal employment opportunities for all.

Other tasks that the Human Rights Department is devoted to are strengthening the autonomy of the human rights institutions in Bosnia and Herzegovina and promoting the rule of law. In 2001, for example, it assisted in the transfer of responsibility for the ombudsman institution from the OSCE to national offices in both entities and by concluding Memoranda of Understanding with the governments ensuring that the ombudspersons were unimpeded in their work, financially autonomous and able to continue their tasks without any limitations.

Finally, the Mission also deals with the issues of minority rights. In a country like Bosnia and Herzegovina that is strongly dominated by the discussion on the three constituent peoples - their rights and equality - there is a danger that minority rights could be neglected. In this connection, the Mission has devoted itself to various projects, in particular to those of the Roma community in Bosnia and Herzegovina. This also includes a Stability Pact project that is being conducted in co-operation by the OSCE, the ODIHR, the Council of Europe and the Roma Participation Programme (run by the Open Society Institute - Budapest). It encourages the Roma to make their problems and rights heard in their dialogue with the national institutions in Bosnia and Herzegovina. The Mission supported the Roma in building a "National Platform for Roma in Bosnia and Herzegovina" that is to promote and represent the rights and interests of the Roma before the government of Bosnia and Herzegovina.

The Department for Security Co-operation, previously the “Department for Regional Stabilization”, assists in fulfilling and reviewing the Agreements concluded within the framework of Articles II and IV of Annex 1-B of the General Framework Agreement under the auspices of the OSCE in 1996. These Agreements refer, on the one hand, to confidence- and security-building measures in Bosnia and Herzegovina with the state level and both entities as parties (Vienna/Article II Agreement), and on the other, to arms limitations for Croatia, the Federal Republic of Yugoslavia and Bosnia and Herzegovina (Florence/Article IV Agreement).<sup>14</sup> While the political responsibility to implement Articles II and IV lies with the Personal Representative of the OSCE Chairman-in-Office in Vienna, the Department for Security Co-operation carries out the work in the field. Under the instruction and guidance of the Personal Representative, it supports the various Consultative Commissions<sup>15</sup> established under these Agreements. It provides assistance in conducting seminars and other activities that are organized by the Personal Representative under Measure XI (Contacts and Co-operation) of the Article II Agreement. Finally, the Mission accompanies inspections and review visits carried out within the framework of the Article II and Article IV Agreements. Since the conclusion of the Agreements, all these activities have to the greatest possible extent remained the same and have thus become routine. Hence, the capacities freed by this were able to be used for other aspects of work in the security and military area.

The Mission intensified its endeavours to implement OSCE commitments in the military dimension.<sup>16</sup> Bosnia and Herzegovina demonstrates one of the worst performance records here. This is primarily attributable to the specific defence structure in Bosnia and Herzegovina, in which, according to the General Framework Agreement, defence matters are the responsibility of each entity and not the state. The state component will have to be strengthened if better results are to be achieved. The valid constitutional law framework offers enough leeway for concrete improvements, which can be implemented by the Mission, for example, strengthening parliamentary control and the Standing Committee on Military Matters.

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14 Cf. Heinz Vetschera, *The Role of the OSCE in the Military Stabilization of Bosnia and Herzegovina*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), *OSCE Yearbook 1998, Baden-Baden 1999*, pp. 305-325.

15 These include the Joint Consultative Commission for the Vienna/Article II Agreement as well as the Subregional Consultative Commission for the Florence/Article IV Agreement.

16 These include, for example, commitments from the Vienna Document 1999 (like the exchange on military information, prior notification of military activities, visits to air bases etc.), fulfilment of the OSCE Communications Network Document, information exchange according to the Code of Conduct on Politico-Military Aspects of Security, questionnaire and information exchange according to the Principles Governing Conventional Arms Transfers, information exchange according to the Document on Small Arms and Light Weapons, the ratification process for the Chemical Weapons Convention, the Global Exchange of Military Information as well as the Anti-Personnel Landmines Questionnaire.

The reorganization of military structures and reducing the military budget constitute the third task area of the Department for Security Co-operation. The expenditures of the two armies of the Republika Srpska and the Federation, which exist alongside one another, by far exceed the military budget percentages of total expenditures in Western European states and considering the low standard of living in Bosnia and Herzegovina are not acceptable under any circumstances.<sup>17</sup> For this reason, at the end of 2001, the Mission in co-operation with SFOR, the World Bank and the IMF launched the media campaign “*Manji Vojnie Troškovi - Veći Životni Standard*” (“Lower Military Expenditures - Higher Standard of Living”). This topic was widely disseminated in public and the population’s awareness of this problem was raised. Against this background, the OSCE Mission with the support of other international partners conducted an audit of the military budgets. The results of this audit confirmed the initial assumption that military expenditures were too high and the armies would have to be downsized. Also the defence ministries were ready to accept this demand. The Defence Ministry of the Federation decided to reduce its army from the current 23,000 soldiers to 13,200 soldiers. Upon the promise they would each be compensated with 10,000 convertible marks, 10,000 soldiers agreed to leave the army voluntarily. The OSCE has been monitoring the demobilization process together with SFOR, the World Bank and the IMF. Parallel to this, they offer assistance in dealing with the social issues arising therefrom. The Mission, for example, supported the Defence Ministry of the Federation, in co-operation with SFOR, in publishing a brochure that contains an overview of specific retraining available, programmes on employment and setting up businesses as well as other relevant information for demobilized soldiers.

### *Prospects*

The OSCE is only one of many international organizations which have been tasked with bringing peace to Bosnia and Herzegovina and the construction of a democratic state, “but it was given crucial tasks which have allowed it to demonstrate its competence and ability to act (...) What is clear, however, is that since Dayton the OSCE has grown from a frequently derided paper tiger to an operational organization capable of action and decision-making.”<sup>18</sup> Its programmes like “Good Governance”, its endeavours to accelerate the return process and to ensure a “sustainable return” as well as its youth work, all support the peace and reform process in Bosnia and Herzegovina and guarantee that it can be completed successfully.

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17 The military expenditures of Bosnia and Herzegovina have up to now been up to ten per cent of gross national product whereas the European average is about two per cent.

18 Marcel Stössel, *Slow Democratization in Bosnia-Herzegovina. Five Years After Dayton: Mixed Balance for the OSCE*, in: *NZZ Online*, 24 May 2001, at: [http://www.stoessel.ch/journalism/Bosnia\\_OSCE\\_NZZ\\_English.htm](http://www.stoessel.ch/journalism/Bosnia_OSCE_NZZ_English.htm).

The goal is clear - there is no alternative to European integration. In the year 2001, Bosnia and Herzegovina has been able to jump irrevocably on the bandwagon to Europe, but it must still surmount quite a few hurdles along the way to full European integration. These consist of concluding an EU Stabilization and Association Agreement as well as fulfilling the 91 specific requirements within the framework of the accession to the Council of Europe, which also demand changes in the state constitution and the Election Law as well as restructuring the armed forces, divided among the three ethnic groups. Economic reforms must be intensified so that the country can eventually exist without international funding. A common integrated economic space as well as functioning institutions and administrative structures must be created. The highly complex and expensive administrative and government apparatus<sup>19</sup> must be transformed into an efficient and more cost-effective system. This could be achieved with the sufficient amount of political will from all political parties in Bosnia and Herzegovina also within the framework of the valid constitutional orders and by no means requires a change in the Dayton Agreement at a second international conference as has been repeatedly demanded from different sides in the recent past.

With the Constitutional Court judgement on the collective equality of the three constituent peoples of Bosnia and Herzegovina, the entity constitutions have been become aligned. "Vital national interests" have been defined and mechanisms have been introduced to protect them. The amendments also provide for proportional representation of the ethnic groups in the government, judiciary and administration. Now is the time to swiftly put these constitutional amendments into practice.

It is also important for the further peace process that war criminals be brought before the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague and that they be sentenced. Without the unswerving prosecution of those who have been accused of war crimes, like Radovan Karadzic and Ratko Mladic, the reconciliation process in Bosnia and Herzegovina will not be able to be brought to a conclusion.

An improvement in the economic co-operation and regional integration in South-eastern Europe is also decisive. Due to its presence in this region, the OSCE could make an essential contribution there.

Without a doubt, the country is not advancing in particularly huge steps and much of the progress has only been achieved laboriously. The reform process is complex and requires a lot of staying power. Therefore, international donor countries should not put a complete stop on investment flowing into the

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19 According to surveys of the International Crisis Group (ICG), the complex structure of Bosnia and Herzegovina comprises 13 political units with legislative and constitutional law competence (the state, the two entities and the ten cantons), furthermore there are five government levels (state, entity, canton, town and municipality) with a total of 181 ministries for the 3.7 million inhabitants of Bosnia and Herzegovina. If one were to translate this ratio into numbers for the Federal Republic of Germany, the latter would have 4,240 ministries. Cf. ICG Report No. 151, cited above (Note 3), p. 2.

country. Moreover, the OSCE and its partners are still needed in Bosnia and Herzegovina. However, the responsibility for the country's development must gradually be handed over to national office bearers and society. Citizens and politicians in Bosnia and Herzegovina must take the future into their own hands.

The general elections of October 2002, in which the legislative and executive branches at all levels (with the exception of the municipalities) have been elected for four years, have offered the opportunity to resolutely develop a pluralist democracy and establish economic reforms. Together with parties who do not base their platforms solely on nationalist rhetoric, but deal with the real problems of the citizens of Bosnia and Herzegovina, it will be able to tackle unwaveringly the pressing problems of daily life, like, for example, the lack of employment vacancies and prospects for youth, housing requirements, educating children and a higher standard of living.