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THE ROLE OF THE COUNCIL OF EUROPE IN SOUTH EAST EUROPE

Ever since the signing of the Dayton Peace Agreement in December of 1995, the Council of Europe has pursued a policy of promoting a stable, democratic state, with a view to its integration, at the appropriate time, as a full member of the Council. After almost six and a half years, that time has come.

The Council of Europe cooperation with BiH is an important element in achieving what the May 2000 Peace Implementation Council called for, namely “a BiH strategy to Europe”. The strategic objectives of the state and the Council converge in the strengthening of the statehood; sustaining and developing the national institutions and structures; ensuring that Bosnia-Herzegovina is a fully recognised member of the international community and an entity for international law, thus alleviating ethnically-based nationalist tendencies and promoting European and especially regional cooperation and stability.

In the pursuit of this overall aim, it has been necessary to comprehend Bosnia-Herzegovina as a state with a high level of devolution of political and administrative responsibilities to its two constituent entities (the Federation of Bosnia-Herzegovina and Republika Srpska), and three constituent peoples, under the terms of the Dayton Peace Agreement. Whilst bearing in mind that it is the State of Bosnia-Herzegovina that will accede to the organisation, all action undertaken over the past six years has sought to promote the even development of both entities. Ministerial structures within the Federation and Republika Srpska have been and will remain the Council of Europe’s principal partners in promoting the expected reforms in the legal, human rights, education and administrative fields, especially after accession to the organisation.

Accession to the Council of Europe has been the aim of every state-level government since April 10th 1995, which is the date of formal application for membership – though parliamentary cooperation dates back to January 1994. However, commitments in principle by the Presidency and the Council of Ministers regarding the promotion and protection of democracy, human rights and the rule of law, as well as the implementation of necessary reforms, have not always been backed up by concomitant action. Mono-ethnic nationalist tendencies have dominated the political authorities in the entities. By virtue of being the structures primarily responsible for reform, the Entities have been able to dictate the pace at which such reforms are undertaken, slowing this process down and thus placing obstacles on the country's path for membership.

Constant involvement in the political process by the international community (and particularly through the co-called “Bonn powers” exercised by the High Representative) went some way to alleviating the difficulties caused by the above-described situation. A breakthrough was achieved following the November 2000 general elections, which saw the emergence of the less-ethnically based (but by no means free of ethnic bias) Alliance for Changes. This new grouping obtained a slim parliamentary majority in the state-level House of Representatives, enabling it to displace, for the first time since 1996, the more monolithic political parties. Along with its control of the Council of Ministers, the Alliance also presently holds a majority in the Federation Parliament. With the collective three-member Presidency also adopting a more positive attitude cooperation between Entities, it is only in the Republika Srpska, where a significant hard-line nationalist element persists through the involvement in governmental/parliamentary structures of the Serb Democratic Party (or SDS), that significant opposition to progress towards full integration of the country into structures of European cooperation exists.

This new climate of cooperation has ensured the passage of important legislation at state level, culminating in the adoption in August 2001 of the BiH Election Law, which was one of the key factors that swung the balance in favour of BiH adoption into Council of Europe. However,

delays within the national political structures required the High Representative to appoint the four national members of the Election Commission in order to ensure that no slippage in the election timetable occurs. Obstructionist tactics by Bosnian Serb members of the State Parliamentary Assembly continue to undermine the reform-oriented activities of that body; also the Republika Srpska authorities are still unwilling to fully cooperate in the OHR initiative to promote better coordination of the government agencies' work in the two entities. Whilst the establishment of the breakaway "Croat Self-Rule" in March 2001, led by disaffected senior members of the Croat Democratic Union (HDZ), has not taken off, much work needs to be done to assure the moderate Bosnian Croat population of their constituent place within the country's communities.

The Bosnian authorities are now preparing for the political milestone of BiH first general elections under domestic responsibility on October 5th 2002. It is our hope that the BiH Constitutional Court Decision regarding the constituency of all three peoples and others over the whole territory of BiH will be honoured in time to have a bearing on these elections, through adoption of changes in Entity Constitutions by the Entity Parliaments.

It is clear by now that membership in the Council of Europe is only a step in an ongoing process. Much has been achieved and yet even more remains to be done. The Council of Europe Parliamentary Assembly's Political Affairs Committee and, in succession, the Legal Affairs and Human Rights Committee, have adopted in September 2001 the commitments that Bosnia-Herzegovina is expected to honor in the three years following the accession. These commitments of Opinion 234 adopted on January 22nd, 2002 by the CoE Parliamentary Assembly, reflect not only what might be considered as standard requirements of an incoming member (such as signature and ratification of basic treaties, notably in the human rights field) but focus also on the reforms assessed by the Parliamentary Assembly as still being necessary for the development of full and sustainable democracy within the country. The three members of the Bosnia Presidency, the Speakers of the two Houses

of State Parliament and the Chairman of the Council of Ministers have agreed to the post-accession commitments in writing.

Following the adoption of Opinion 234, the CoE Chairman of the Committee of Ministers has sent a letter to the BiH Presidency emphasising the politically most important commitments to be fulfilled. These are: full cooperation with the International Criminal Tribunal for former Yugoslavia; the full and affective implementation of Dayton but seen as a basis for further development of the state-building process and for constitutional changes based on the will of the country's constituent peoples and the implementation of the Constitutional Court decision on the three constituent peoples. Monitoring mechanisms are also foreseen to oversee the fulfilment of the commitments. Furthermore, in order to assist Bosnia-Herzegovina in its task, a post-accession programme of assistance was proposed in cooperation with the authorities and subsequently adopted.

Aside from day to day negotiations with officials from all levels of BiH government, within the main focus of our work in Bosnia-Herzegovina, I wish to outline a few issues. Working particularly with the Ministers of Justice and of the Interior in both Entities, expertise has been provided with a view to reforming legislation in the administrative, civil law and criminal law fields; training has been provided on revised legislation, and the Council has assisted with reforms to the judiciary and its functioning.

In the human rights field, support has been provided to the establishment and functioning of the Human Rights Commission (Ombudsman and Human Rights Chamber). Expertise has been provided on domestic legislation, for example in such fields as trafficking in human beings, conscientious objections, internal affairs and public order and peace. The first phase of a major nationwide programme to train judges and other legal professionals in the European Convention on Human Rights has been completed. Particular attention has been paid to working with the International Police Task Force on developing a new multi-ethnic police force respecting human rights. Regarding education, assistance has been provided to ensuring the functioning of the Conference of Ministers of

Education, and subsequently in establishing a pluralist education system, including the development of harmonised curriculums and reforms of textbooks.

Another area of focus has been the development of civil society and of harmonious inter-community relations. The Council of Europe has worked very closely with NGOs and implementing a host of different activities – be they in human rights, local government, or other fields. Due to its particular situation, considerable attention has been given to inter-community relations in the city of Mostar where civil society and media projects run by our office aim at creating further links between communities.

We are all aware of the general concerns of the international community regarding the development of sustainable democratic stability in South East Europe. BiH accession into Council of Europe will contribute to reinforcing outside perceptions of stability, and remains an end in itself in assuring the country's credentials as a single, functioning, democratic state. Moreover, membership in the Council is clearly a crucial first step towards a further end, namely accession to the European Union, and, in the shorter term, the conclusion of the necessary prerequisite, a Stabilisation and Association Agreement.

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