

**CIVIL DIMENSION  
OF SECURITY**

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Original: English



**NATO Parliamentary Assembly**

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**COMMITTEE VISIT TO  
THE HAGUE AND SARAJEVO**

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**SECRETARIAT REPORT**

***28 FEBRUARY – 3 MARCH 2006***

International Secretariat

14 March 2006

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*Assembly documents are available on its website, <http://www.nato-pa.int>*

## ***I. INTRODUCTION***

1. A delegation of the Committee on the Civil Dimension of Security, led by Chairman Michael Clapham (United Kingdom), visited The Hague and Sarajevo on 28 February – 3 March 2006.
2. The purpose of the visit was to assess the political and socio-economic situation in Bosnia and Herzegovina (BiH) ten years after the Dayton agreements, and to discuss the main issues and challenges facing the country as part of the processes of reconstruction and Euro-Atlantic integration. Information gathered during the visit will be used to draft the Committee's General Report on 'Bosnia and Herzegovina, Prospects for the Post-Dayton Era', which will first be presented at the NATO PA's Spring Session in Paris in May 2006.
3. On November 21 and December 14, 2005, the international community celebrated the 10-year anniversary of the Dayton Agreement, which put an end to the conflict in BiH. For many observers, this date opened a new era for BiH. 2006 should bring important decisions regarding the future of the country. Political leaders in BiH are engaged in difficult talks over a revision of the Constitution inherited from Dayton. The country is preparing to hold important elections in October 2006. Finally, the international community is also in the process of reassessing its relations with BiH, with a view to bringing the country closer to full Euro-Atlantic integration.
4. Against this background, the meetings explored progress made since Dayton towards the reconstruction of stable and sustainable institutions and towards national reconciliation. Other issues included an assessment of the security environment and main security challenges facing the country, as well as the role of the international community in BiH and prospects for BiH's Euro-Atlantic integration. Finally, particular attention was devoted to the issue of war criminals and co-operation with the International Criminal Tribunal for the former Yugoslavia (ICTY).
5. In The Hague, the Committee met with various officials at the ICTY and International Court of Justice (ICJ) and attended parts of trials heard by each courts. In Sarajevo, the delegation met with officials from the executive, the legislative and judicial branches of government, as well as representatives from the international community (NATO, EU, OHR, OSCE) and from human rights organisations.
6. The delegation is grateful to the Netherlands and BiH delegations to the NATO Parliamentary Assembly for their assistance in the organisation of this visit.

## ***II. VISIT TO THE HAGUE***

### **A. INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA (ICTY)**

7. **Hans Holthuis**, Registrar of the ICTY, as well as other officers from the Registry, gave the delegation an overview of the Tribunal's history, mandate and achievements, particularly in relation to BiH. The ICTY, established by UN Security Council Resolution 827 on 25th May 1993, has the authority to prosecute and try four clusters of offences committed on the territory of the former Yugoslavia since 1991: grave breaches of the 1949 Geneva Convention; violations of the laws or customs of war; genocide; and crimes against humanity.
8. The Tribunal convicted a total of 161 officials, of which 93 indicted for crimes committed in BiH. Of those, 41 had already been tried, 48 had their cases pending before the Tribunal at various stages of proceedings and four were still at large (Radovan Karadzic, Ratko Mladic,

Zdrako Tolimir and Vlastimir Djordjevic). All cases included, six officials indicted by the Tribunal are still at large.

9. According to Mr Holthuis, the main achievements of the Tribunal include bringing justice to victims of the conflict and giving them a voice; holding leaders accountable, based on individualised guilt; establishing facts beyond reasonable doubt; developing international law; strengthening the rule of law in the countries from the former Yugoslavia.

10. Mr Holthuis presented the Tribunal's outreach programme, which was established in 1999, independently of the Tribunal's main missions, as part of an effort to improve the Tribunal's image in the region and assist in capacity building for local judiciaries. This programme focuses on two aspects: 1. support for local courts; 2. outreach activities aimed at local media and local communities. The Tribunal's regional offices in the region were conducting the bulk of these efforts.

11. **Judge Fausto Pocar**, President of the ICTY, and **Carla del Ponte**, Prosecutor of the ICTY, briefed the delegation on the Tribunal's so-called "Completion Strategy". According to this document, the Tribunal set itself deadlines for the completion of its activities, namely the end of 2008, for all trial activities at first instance and 2010 for all other activities. To this end, the ICTY adopted two main strategies. One consisted of joining cases dealing with similar events. Three of these 'mega-trials' were currently on the Court's docket, including the Srebrenica cases, involving nine accused.

12. A second strategy consisted of referring cases from the ICTY to local courts. Only two cases had been so far referred to BiH authorities, but more requests had been issued and were being examined. According to the speakers, these referral mechanisms still posed a number of problems in terms of legal safeguards and standards. One crucial issue related to witness protection programmes available for witnesses testifying in war crimes trials in BiH.

13. Overall, Judge Pocar assessed the current deadlines set in the completion strategy as unrealistic. 2009 would be a more realistic deadline, conditional to the delivery of the remaining indictees still at large. According to Ms Del Ponte, the level of co-operation granted to the ICTY by countries in the region, as well as co-operation and co-ordination among representatives of the international community on the ground, had improved significantly recently. However, many issues and problems still remained, including the need to break the support networks that have protected fugitives for the past ten years.

14. As part of its visit to the ICTY, the delegation was able to attend part of the trial of the former President of the Republic of Yugoslavia, Slobodan Milosevic.

## **B. INTERNATIONAL COURT OF JUSTICE (ICJ)**

15. At the ICJ, the delegation was received by **Laurence Blairon**, Head of the Information Department, who provided an overview of the Court's mandate and achievements. The Court is the main judicial organ of the United Nations (UN) and has jurisdiction over both contentious and advisory cases. Contentious cases could be submitted by member states of the UN, and, in some cases, non-member states. Advisory opinions could only be requested by a limited number of organs of the UN.

16. Ms Blairon went on to brief the delegation on the case brought before the Court by BiH against Serbia and Montenegro (SiCG). In its application, filed in March 1993 during the conflict, BiH accused SiCG of the crime of genocide against the Bosnian people and asked the Court to adopt provisional measures to prevent an aggravation of the situation on the ground. On

27 February 2006, one day before the delegation's arrival in The Hague, the Court had started hearings on the merits of the case. According to Ms Blairon, hearings would go until 9 May 2006. The Court's deliberations would then last for at least another six months.

17. Ms Blairon presented some of the main issues raised in the case. One related to the status of SiCG within the UN system and the legal problems posed by the dissolution of the former Yugoslavia. The fact that the ICJ had ruled in another series of cases relating to the NATO air campaign in Kosovo that SiCG was not a state party to the Genocide Convention at the time of the events, could have consequences for the BiH / SiCG genocide case. If the court were to rule that genocide was indeed committed in BiH, this could have serious consequences for the relations between the two countries, not least because the Court could order substantial financial compensation.

18. The delegation was able to attend part of the hearings on the 'genocide case', which was followed by a quick exchange of views on the case and more broadly on the Court's mission with the President of the Court, **Judge Rosalyn Higgins**.

### **III. VISIT TO SARAJEVO**

#### **A. OVERVIEW: ACHIEVEMENTS IN INSTITUTION-BUILDING AND PROSPECTS FOR 2006**

19. Many governmental and parliamentary officials underlined the tremendous achievements of BiH in terms of institution-building, particularly in the defence and security sector. BiH had agreed in the past two years to the creation of unified armed forces, to the police reform, the creation of a single intelligence and security agency (State Intelligence and Protection Agency, SIPA) and a single state border service (SBS), and finally to the creation of a State Court and Prosecutor's office at the state level.

20. **Osman Topcagic**, Head of the Directorate for European Integration, explained that all requirements set by the EU's Feasibility Study of 2003 had been fulfilled. As a result, 27 new institutions had been set up, leading to a total of 57 institutions in the 2006 budget. The budget itself had undergone major changes this year. For the first time, the national component had become the main source of income, thanks to the introduction of a common VAT system on 1 January 2006. All these changes had made possible the opening, at the end of 2005, of negotiations with the European Union on a Stabilisation and Association Agreement (SAA).

21. **Peter Bas-Becker**, Deputy High Representative, also acknowledged the major achievements of 2005 and explained that 2006 should be the year of consolidation and ownership. Reforms adopted in the previous years and months now needed to be fully implemented. The conclusion of the SAA talks, which could be expected for the end of 2006, should help consolidate socio-economic development in BiH. However, Mr Bas-Becker underlined some of the areas where progress was still necessary: public administration; public broadcasting, particularly at Entity level; and higher education.

22. These were also priority areas for the OSCE's programmes in support of institution- and capacity-building in BiH. **John Stauffer**, Director of Human Rights, and **Trefor Williams**, Director of Democratisation at the OSCE Mission in Sarajevo, underlined that the OSCE was engaged in particular in support for local courts, particularly in the area of criminal justice; promotion of social justice; strengthening of legislative processes; promotion of citizen participation in political processes and of civil society in general; and reform of municipal administration.

23. Local and international officials also explained that 2006 would be the year of constitutional consolidation. All seemed to agree that, whatever the merits of the Dayton constitution, it was time to adopt new rules of the game. Talks between representatives of the main political parties on a revision of the constitution were underway. However, according to **Nikola Spiric**, Speaker-in-Office of the House of Representatives, negotiations stalled on the issue of the suppression of the tripartite rotating presidency and its replacement with a single reinforced president and two vice-presidents with limited powers. This was confirmed by Mr Bas-Becker, who explained that agreement had to be reached by March 15 for the amendments to take effect before the October elections. However, he also clarified that constitutional reform was not a condition for the SAA process, but only a long-term necessity.

24. The revision of the constitution would be accompanied by a fundamental overhaul of the role of the High Representative (HR). Mr Bas-Becker explained to the delegation that the recently appointed HR, Christian Schwarz-Schilling, had already made clear that he intended to seriously limit the use of the Bonn powers. Moreover, the Office of the High Representative (OHR) should be dismantled in the summer of 2007. The HR would then retain only his functions as EU Special Representative.

25. Mr Bas-Becker underlined that, in this context, elections scheduled for October 2006 were particularly important, because they would bring to power the first government fully in charge of country affairs. Representatives of the international community seemed to agree that these elections would provide a crucial opportunity for BiH. Unfortunately, the general public seemed to show only limited interest. Moreover, nationalistic tendencies were still strong and could be expected to play a prominent role.

## **B. SECURITY SECTOR REFORM**

26. The delegation received several briefings on key aspects of the security situation in BiH. Security sector reform was a good illustration of the major transformation that BiH had undergone in the past few years.

27. Many speakers agreed that the security situation in BiH was now stable and that current security threats were very different from what they used to be in the 1990s. However, not all agreed on what the main security challenge was today. Some of the main issues mentioned in the discussions included the still dysfunctional police and security services, the socio-economic situation and organised crime. Surplus weapons and ammunitions, as well as remaining minefields, were also considered as an important cause for concern.

### **1. Defence reform**

28. Both local and international speakers assessed defence reform as a successful process. NATO Commander, **General Weber**, and POLAD **Raffi Gregorian**, underlined some of the major achievements of the past few years. At the end of the conflict, BiH had two separate armies and two Ministries of Defence, more than 400,000 conscript soldiers, police and paramilitaries, subject to external interference and lacking basic mechanisms for democratic control. The transformation of BiH defence sector should lead to the establishment by the end of 2007 of a unified 15,000-men professional army, organised along NATO standards, and a single command and control structure at the state level.

29. The reform had received overwhelming political support and important steps had already been taken. All entity defence competencies have been transferred to the state level in August-September 2005. Defence and service laws were adopted by the BiH parliament in October 2005. As of 1 January 2006, conscription and passive reserves were abolished, Entity

Ministries of Defence, commands and armies were legally terminated and replaced by a state MoD, Joint Staff, commands and army. A single state defence budget has come into effect.

30. Future priorities included the issue of defence property and disposal of installations, approval of the new force structure, the size and distribution of the unified armed forces.

31. The international community had been instrumental in supporting the process of defence reform. Dr Gregorian underlined that NATO had played a leading role both in the preparation and the implementation of the defence reform agenda. NATO was co-chairing, together with the BiH Minister of Defence, the Defence Reform Commission (DRC) established by the HR in 2003 to monitor the reform process. The position of Political Adviser that he was holding had been created for the particular aim of ensuring NATO's unified representation in the DRC. NATO also provided support to local authorities in two other areas: the search for war criminals, and the fight against terrorism in BiH.

32. **Major General Chiarini**, EUFOR Commander, presented the role of the EUFOR-Althea mission in BiH. EUFOR had successfully taken over from NATO's SFOR and was now principally in charge of ensuring a safe and stable security environment in BiH. Working together with other international stakeholders, EUFOR was in this way supporting the transformation of BiH's defence sector and the stabilisation of the security situation. General Chiarini insisted particularly on the close relationship between EUFOR and NATO, citing examples of co-operation over defence reform and assistance to the ICTY, as well as EUFOR's capability to support NATO troops in Kosovo.

33. **Tauno Aaltonen**, Director of Defence and Security at the OSCE Mission in Sarajevo, presented the OSCE's activities in support of defence reform in BiH. Working together with NATO, the DRC and Defence Reform Secretariat, the OSCE was working to promote security sector institution building, parliamentary oversight, arms control, as well as regional co-operation.

## 2. Police reform

34. Police reform in many ways posed more serious problems and challenges than defence reform. **Osman Topcagic**, Head of the Directorate for European Integration, described the current state of division of police forces in BiH. The police is made up of three components: the RS police, which is highly centralised; the Federation police, which is highly decentralised; the state level police, which for now comprises mostly the State Intelligence and Protection Agency (SIPA) and the State Border Service (SBS).

35. According to **Brigadier General Coppola**, Head of the EU Police Mission (EUPM), the current organisation of the police was very inefficient: it was expensive, not harmonised and not co-operative. The state-level police was progressively built up - the SBS was almost fully operational, whereas SIPA had only reached about 30-35% of its full capacity. The main issue for the future was the organisation of the local police.

36. An agreement had been reached in October 2005 after a long battle and strong international pressure, based on the three criteria set by the European Union and a Directorate established to oversee its implementation. A complete legislative framework should be submitted for adoption to the BiH parliament and both Entities' parliaments by December 2006.

37. Mr Coppola was not very optimistic regarding the likelihood of keeping this deadline. According to the speaker, the major contentious issue would be over the police regions. The international community insisted on a regional approach that was based on technical and functional criteria, not geographic or ethnic considerations. This meant an arrangement crossing

the borderlines between the RS and the Federation, which was very sensitive for all sides. Mr Coppola therefore insisted strongly that the ultimate goal for local as well as international authorities should be to design, in accordance with European standards, a workable and generally acceptable framework, which could be sustained even once the international community would leave BiH. Any project that would be resented by local authorities or imposed by the international community would probably not provide such a long-term solution.

38. The EUPM was playing a leading role in support of police reform, particularly through the participation of the Head of Mission in the Directorate's Steering Board. However, the EUPM's mandate had a broader scope to assist "through mentoring, monitoring and inspecting", the establishment of a sustainable, professional and multiethnic police force, operating in accordance with the best European and international standards.

39. The EUPM had been radically transformed since the first mission in 2002-2005. The new focus of the mission was on promoting local ownership, encouraging local initiative in the fight against organised crime and verifying compliance with European standards of accountability and lack of political interference.

40. Some local officials regretted, however, that neither EUPM nor any other local or international body had been granted competence over the issue of decertified policemen. A significant number of policemen had been decertified by the EUPM's predecessor, the UN International Police Task Force. Yet, today, nobody in BiH could examine appeals against these decertifications.

### **C. NATIONAL RECONCILIATION, EDUCATION, HUMAN RIGHTS AND WAR CRIMES**

41. Several local officials insisted on the specificities of the society in BiH. One member of the BiH parliament underlined that relations between constituent people should not be misunderstood for minority issues. The constituent people were officially recognised by the constitution and could not therefore be considered as minorities. **Halid Genjac**, Deputy Head of the BiH delegation to the NATO PA, also explained that the notion of 'nation', in the way it was usually used in Western Europe, could not be applied to BiH. What was needed in BiH was not to build a common nation, but rather a common identity, which would bring together all ethnic groups. This process would take time, but Mr Genjac felt confident that it should also become easier as BiH gets closer to European integration.

#### **1. Education**

42. The issue of education was discussed extensively by the delegation, as a good indicator of BiH's progress towards national reconciliation. **Claude Kieffer**, Deputy Director of Education at the OSCE Mission in Sarajevo, explained that education reform had come to a standstill. There were currently 14 Ministries of Education across the country, a fragmented and diverse schooling system, quasi-segregated schools and virtually no curriculum option for children who do not belong to one of the constituent people or refuse to identify with one. Temporary solutions, such as the national group of issues or the 'two-schools-under-one-roof', which were originally meant at facilitating the integration of children from different communities, had proven ineffective.

43. One member of the BiH Parliamentary Assembly explained that the laws on primary and secondary education had already been adopted, but implementation was problematic, particularly regarding the use of languages. Higher education was an even more difficult area. Although all stakeholders seemed to agree on standards and rules, i.e. on the implementation of EU

requirements regarding the Bologna process, disagreements focused on the issues of competences and finances.

## 2. Human rights

44. The delegation was briefed on the human rights situation by various local human rights representatives. All underlined that, although BiH authorities had signed up to all major international agreements and had passed legislation on human rights, there was an important gap between legislation and practice. Many issues remained regarding the implementation of human rights standards and principles, particularly in the fields of minority protection and education.

45. According to **Srdan Dizdarevic**, President of the Helsinki Committee for Human Rights in BiH, nationalistic tendencies were still very strong in BiH. Discrimination based on ethnicity, gender and political orientation is widespread. The situation of certain minorities, particularly the Roma population (estimated at 80,000-120,000 people by the Helsinki Committee, at far less than 80,000 by other sources), is very worrying.

46. The various Ombudsmen's offices regularly monitored the situation of minorities and pushed for further legislative changes. However, this was made difficult by the heterogeneous approach to human rights protection across BiH. According to **Safet Pasic**, BiH Ombudsman, more than 1,000 NGOs in BiH deal with human rights in various ways and in an unco-ordinated manner. This, together with weak state structures, had prevented BiH from establishing an effective framework for human rights protection.

47. Many speakers saw very little chance for progress without strong international pressure and expertise. In this regard, SAA negotiations with the European Union could provide a good opportunity to improve the human rights situation in BiH. Nevertheless, **Mariofil Ljubic**, BiH Ombudsman, also underlined that it was important for BiH politicians to realise that human rights protection was not only a requirement imposed from abroad but a necessity for the population of BiH.

## 3. War crimes

48. The delegation was also briefed on local mechanisms for the judgement of war criminals, as an important part of the reconciliation efforts. **Ibro Bulic**, from the Prosecutor's office of the BiH State Court, presented the structure and mandate of the Prosecutor's office in relation to war crimes committed in BiH. He explained that the office was made up of six regional teams with local and international staff. It had jurisdiction over four categories of cases: 1. '11bis cases', transferred by the ICTY and for which an indictment had already been issued; 2. 'rules of the road' cases, already reviewed by the ICTY Prosecutor, although no indictment has been issued; 3. new cases; 4. dossiers of cases transmitted by the ICTY and for which investigations were only in a preliminary stage. The Prosecutor's office had been operational for one year. Mr Bulic informed the delegation that a landmark trial on the Srebrenica events, involving 11 perpetrators was scheduled to start on March 11.

49. **Azra Miletic**, judge in the Appeals Chamber of the BiH State Court, briefed the delegation on the mandate and functioning of the War Crimes Chamber of the BiH State Court. Based on the 2003 criminal code, the War Crimes Chamber had jurisdiction over all war crimes cases filed after March 2003, as well as some cases filed before that date and considered "sensitive" or "very sensitive". The Chambers had just started their work and, according to the speaker, offered every guarantee in terms of independence and fair trial. The presence of international members was an additional safeguard. Unfortunately, lower courts in the country did not benefit from similar resources.



#### **D. EURO-ATLANTIC INTEGRATION AND RELATIONS WITH THE INTERNATIONAL COMMUNITY**

50. Mr Genjac paid tribute to the assistance provided by the international community in favour of institution-building and security sector reform in BiH. NATO, the European Union, the OSCE, as well as individual countries such as the United States, had proved to be indispensable partners. Overall and except for a few incidents, Bosnian speakers assessed the role of the international community in BiH in a positive light. Many agreed however that it was time for a transformation of the role of the HR.

51. All local officials hailed the recent opening of talks with the European Union on a SAA as an important step towards accession to the Union. However, many regretted also that BiH had been unable until now to join NATO's PfP programme. Mr Genjac insisted that all NATO requirements had been fulfilled and that the one outstanding issue, co-operation with the ICTY, was a political rather than technical condition.

52. Asked about the potential repercussions of the situation in SiCG on BiH's territorial integrity and processes of European integration, **Barisa Colak**, BiH Minister for Security, denied that current discussions regarding Kosovo or Montenegro could endanger in any way the territorial integrity of BiH. He admitted, however, that the regional context might result in a slower pace of negotiations with the European Union and NATO, although both institutions insisted on individualised paths to accession. Mr Topcagic concurred, explaining that BiH had demonstrated on several occasions in the past that it could dissociate itself with events taking place in Serbia. Deputy HR Bas-Becker was also comforting on this aspect.

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