



## Security Council

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### Letter dated 30 October 2014 from the Secretary-General addressed to the President of the Security Council

Pursuant to Security Council resolution 1031 (1995), I have the honour to transmit the forty-sixth report on the implementation of the Peace Agreement on Bosnia and Herzegovina, covering the period from 21 April 2014 to 21 October 2014, which I received from the High Representative for Bosnia and Herzegovina (see annex).

I should be grateful if you would bring the report to the attention of the members of the Security Council.

(Signed) **BAN** Ki-moon



## **Annex**

### **Letter dated 27 October 2014 from the High Representative for Bosnia and Herzegovina addressed to the Secretary-General**

Pursuant to Security Council resolution 1031 (1995), in which the Council requested the Secretary-General to submit to it reports from the High Representative in accordance with annex 10 of the General Framework Agreement for Peace in Bosnia and Herzegovina and the Conclusions of the London Peace Implementation Conference of 8 and 9 December 1995, I herewith present to you the forty-sixth report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina. I would ask that the report be distributed to the Council members for their consideration.

This is my twelfth report to the Secretary-General since assuming the post of High Representative for Bosnia and Herzegovina and European Union Special Representative on 26 March 2009. The present report covers the period from 21 April 2014 to 21 October 2014.

Should you or any Council member require any information beyond what is provided in the attached report or have any questions regarding its contents, I should be pleased to provide you with it.

*(Signed)* Valentin **Inzko**

## **Forty-sixth report of the High Representative for Bosnia and Herzegovina**

### *Summary*

The present report covers the period from 21 April 2014 to 21 October 2014. During this period, the downward trajectory the country has been on during the past eight years continued, with governing institutions and political leaders failing to advance on a broad range of reforms, including the conditions set for Bosnia and Herzegovina to move towards Euro-Atlantic integration. The two most significant developments during the reporting period were the severe flooding that struck communities throughout the country in May and the holding of the country's seventh general elections since the war on 12 October.

Estimates put the total economic impact of the floods and consequent landslides that hit Bosnia and Herzegovina in May 2014 at €2.04 billion, or nearly 15 per cent of its gross domestic product. The prompt and admirable readiness of individuals and local communities to assist neighbours in need across ethnic and administrative boundaries was an overwhelming signal that many people are more interested in finding solutions to the country's problems together than the divisive rhetoric of some politicians would suggest. The international community has responded to the disaster with financial assistance but much remains for the domestic authorities to do to complete the recovery effort and mitigate the risks of similar disasters in the future.

Although the official election campaign began in September, personal conflicts between party representatives from ruling and opposition coalitions at various levels and divisive rhetoric from certain politicians began well before then. The poll itself was generally considered to have been conducted in an orderly fashion, but with reports of irregularities in several polling stations. The high number of spoiled or invalid ballots cast, in particular, has been a source of controversy, and the Central Election Commission was engaged in a recount exercise for some 120 polling stations before the announcement of preliminary results. Legal challenges from some parties are to be expected before the final results are announced on 11 November.

Once the results are final, it will be important that the new legislatures and governments are formed promptly and fully in accordance with the applicable legal framework. Both the citizens of Bosnia and Herzegovina and the international community are right to have high expectations from the incoming governments regardless of the parties that form the ruling coalitions. For these expectations to be met, there will need to be a decisive break with the past and a new way of doing politics that puts the interests of citizens and the country as a whole first.

From the point of view of my mandate to uphold the civilian aspects of the General Framework Agreement for Peace, the ever increasing calls by officials of Republika Srpska for that entity's secession from Bosnia and Herzegovina and other statements challenging the sovereignty and territorial integrity of the country are a significant concern. Under the authority vested in me, I have repeatedly made it clear that the entities have no right to secede from Bosnia and Herzegovina under the Dayton Peace Agreement and that the sovereignty and territorial integrity of Bosnia and Herzegovina is guaranteed by the country's Constitution and by international law.

In the complex environment that currently prevails in the country, the presence of the European Union military mission in Bosnia and Herzegovina with an executive mandate remains of vital importance, enabling my Office and others in the international community to fulfil our respective mandates as well as reassuring citizens from all ethnic groups throughout the country.

## I. Introduction

1. This is my twelfth report to the Secretary-General since assuming the post of High Representative for Bosnia and Herzegovina. It provides a narrative description of progress made towards attaining the goals outlined in previous reports, registers factual developments, logs relevant citations relating to the reporting period and provides my assessment of the implementation of key areas falling under my mandate. I have focused my efforts on addressing those areas, in line with my primary responsibility to uphold the civilian aspects of the General Framework Agreement for Peace, while also encouraging progress on the five objectives and two conditions for the closure of the Office of the High Representative and working to preserve steps that have previously been taken to implement the Agreement.

2. My energies continue to be directed towards meeting my mandate as defined under annex 10 of the General Framework Agreement for Peace and relevant resolutions of the Security Council. My Office fully supports the efforts of the European Union and the North Atlantic Treaty Organization (NATO) to help Bosnia and Herzegovina to move along the path towards closer integration with those organizations.

## II. Political update

### A. General political environment

3. The reporting period was dominated by two events, the floods in May and the general elections in October, while continuing to be characterized by the ongoing failure on the part of institutions and political leaders to advance a broad range of issues, including those steps that are necessary for the country to advance towards Euro-Atlantic integration.<sup>1</sup> The rise in statements and actions challenging the fundamentals of the General Framework Agreement for Peace continued to be a matter of concern. While the February protests petered out during the summer months, civil society made a significant effort to stimulate an issues-based election campaign and to encourage citizens to vote. On 25 September, the long-standing President of the Party for Democratic Action and former member of the Bosnia and Herzegovina Presidency, Sulejman Tihic, passed away after a long and difficult illness. His commitment to reaching healthy compromises through dialogue will be missed and it will now fall on others to show these qualities.

#### *General elections*

4. On 12 October, Bosnia and Herzegovina held its seventh general elections since the signing of the General Framework Agreement for Peace. In its preliminary assessment, the Office for Democratic Institutions and Human Rights noted that the

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<sup>1</sup> In this regard, the European Union noted in its Enlargement Strategy and Main Challenges 2014-2015 that, "There has been no tangible progress in establishing functional and sustainable institutions" and that "Bosnia and Herzegovina has made little progress towards becoming a functioning market economy". The European Union summarized that: "Bosnia and Herzegovina remains at a standstill in its European integration path. Following the elections it will be essential for the country to speak with one voice, to tackle urgent socioeconomic reforms and to progress on its European agenda."

elections “were held in a competitive environment. The interethnic divide was a key factor. The lack of a shared vision in the country’s future and cooperation among the three constituent peoples continues to hinder the reform necessary to fully ensure democratic elections”. At the time of writing, overall voter turnout stood at approximately 55 per cent. Once again, there are concerns about the high number of spoiled ballots and other alleged irregularities.

5. Under the Election Law of Bosnia and Herzegovina, the final election results are to be confirmed by the Central Election Commission by 11 November and therefore, at the time of writing, all election results remained provisional. In the Federation, the Party for Democratic Action received the highest level of support, followed by the Party for a Better Future and the Democratic Front. The Croatian Democratic Union of Bosnia and Herzegovina reaffirmed its position as the largest Croat party in Bosnia and Herzegovina. The Alliance of Independent Social Democrats lost votes compared with 2010 but remained the largest party in Republika Srpska. Owing to the complex system of allocating compensatory mandates in the Bosnia and Herzegovina House of Representatives, it is too early to predict the final composition of the state parliament or the possible makeup of the state executive. Given the wide distribution of seats and the markedly differing agendas of the parties, the government formation process could take several months.

6. The three-member Bosnia and Herzegovina Presidency saw the re-election of the current Bosniak member (Bakir Izetbegovic, Party for Democratic Action), with two new candidates being elected as the Croat member (Dragan Covic, Croatian Democratic Union of Bosnia and Herzegovina-led coalition) and the Serb member (Mladen Ivanic, Party for Democratic Progress). At the time of writing, one of the candidates for the Croat member of the Presidency had announced that he would file a complaint alleging voter fraud.

#### *Floods in Bosnia and Herzegovina*

7. Severe flooding and subsequent landslides hit many communities in both entities and the Brcko District in May 2014, damaging homes, public infrastructure, businesses and agricultural land. Heavy rains in August caused additional damage and complicated recovery efforts. The “Bosnia and Herzegovina recovery needs assessment”, which was conducted by the authorities at all levels in Bosnia and Herzegovina with the support of the European Union, United Nations and World Bank, estimates the total economic impact of the disaster at €2.04 billion, or 15 per cent of the country’s gross domestic product.<sup>2</sup> Thousands of people were displaced from their homes, over 2,000 of which were completely destroyed. The flooding also moved landmines and other unexploded ordnance from the 1992-1995 war, leaving 70 per cent of flooded areas at risk from that threat.

8. International organizations and bilateral donors, including the United Nations, the European Union, the European Union military mission in Bosnia and Herzegovina (EUFOR), NATO and the Red Cross, played a crucial role in the immediate response to the floods, providing an initial \$30 million during the emergency phase, with another \$30 million coming from private contributions and other sources. I must acknowledge the role of the United Nations in coordination and information-sharing throughout. On 16 July, an international donor conference

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<sup>2</sup> “Bosnia and Herzegovina recovery needs assessment”, conducted by the authorities in Bosnia and Herzegovina, with the support of the European Union, the United Nations and the World Bank.

was organized in Brussels, to shore up financial assistance to the countries affected by the floods, which also included Serbia and Croatia. A total of €1.846 billion was pledged, out of which €809.2 million was allocated for Bosnia and Herzegovina, primarily through loans.

9. Several months after the disaster, the country has not recovered. Although substantive financial support is available to the authorities of Bosnia and Herzegovina from the international community, the absence of a comprehensive recovery strategy and associated recovery projects by the domestic authorities have hindered the disbursement of donor pledges and the implementation of recovery efforts, leaving the affected population vulnerable as winter approaches. Consequently, many donors (including the European Union, by means of its 43 million euro Floods Recovery Programme) have opted to implement recovery activities directly in the affected municipalities through implementing agencies such as the United Nations Development Programme. Moreover, a coherent strategy for coping with potential similar disasters in the future is sorely lacking and must be urgently addressed by the domestic authorities.

## **B. Decisions of the High Representative during the reporting period**

10. On 19 August, I used my executive authority to lift bans on holding public office for 31 individuals. These sanctions had been enacted by High Representatives against officials for obstructing the implementation of the General Framework Agreement for Peace. This represents the final step in a review process initiated nine years ago by Paddy Ashdown, the High Representative at that time. Following this step, there is currently no person under High Representative ban. This action in no way calls into question the High Representative's authority to remove individuals in the future should they violate or challenge the Agreement and the peace it has brought to the citizens of Bosnia and Herzegovina.

11. High Representatives have always made it clear that removals of officials from public office are extraordinary measures, subject to constant review, with the aim of lifting them when appropriate. As such, I issued these decisions in light of the principles of equity, proper governance and the judicious exercise of the High Representative's international mandate, all of which take into account the balance between the protection of stability and the rights of the individual.

## **C. Five objectives and two conditions for the closure of the Office of the High Representative**

### *Progress on objectives*

12. During the reporting period, the authorities in Bosnia and Herzegovina failed to make any concrete progress on the outstanding objectives set by the Steering Board of the Peace Implementation Council as prerequisites for the closure of the Office of the High Representative.

### *State and defence property*

13. My Office continued efforts to facilitate a resolution of state and defence property issues related to the ownership status of public property of the former

Yugoslavia, primarily through direct contacts with relevant domestic and international stakeholders. Regrettably, the lack of political will to achieve a compromise within the framework of the clear principles laid out in the Constitutional Court's decision on this issue in July 2012 continued to be the primary obstacle to progress.

14. On the specific issue of properties to be used by the Ministry of Defence and Armed Forces of Bosnia and Herzegovina (prospective defence property) there has been a serious setback. Land registry authorities in Republika Srpska in at least two cases have used the "public inspection process" provided in a 2011 law to seek to register such properties to the Republika Srpska entity, despite the fact that the Bosnia and Herzegovina Law on Defence already requires that they be registered to the state of Bosnia and Herzegovina. In both these cases (one in the Han Pijesak municipality and the other in the Bileca municipality), the Bosnia and Herzegovina State Attorney has on behalf of the Bosnia and Herzegovina Ministry of Defence filed a lawsuit with the Court of Bosnia and Herzegovina asking for the Court to protect the state's right of ownership. The *Han Pijesak* case is currently more advanced procedurally. The Court's decision in this case is likely to set a precedent for all other property disputes over prospective defence locations in Republika Srpska.

15. The case touches upon a number of decisions taken by the High Representative in the field of state property, and also relates to my mandate in that the General Framework Agreement for Peace requires the entities to respect the competencies and laws of the state and in that the issues of state and defence property remain central to the mandate of the High Representative. Having these facts and the significance of the case in mind, my Office has submitted written observations to the Court.

16. The reporting period has also seen worrisome developments in Republika Srpska related to the broader state property issue. In the past 18 months, the Republika Srpska government has adopted at least two decisions on the apportionment of so-called non-prospective defence locations in Republika Srpska. The term "non-prospective defence property" refers to properties owned by the former Yugoslav National Army, which are not needed by the Bosnia and Herzegovina Ministry of Defence and are therefore not covered by the Bosnia and Herzegovina Law on Defence. However, these properties are subject to the general ban on the disposal of state property enacted by the High Representative on 18 March 2005 and adopted by the Bosnia and Herzegovina Parliamentary Assembly in 2007 (Law on the Temporary Prohibition of Disposal of State Property of Bosnia and Herzegovina). The purpose of the ban is to prevent publicly owned properties from being sold off or otherwise disposed of in a way that would damage the interests of the state prior to an "acceptable and sustainable resolution" being found for the distribution of these properties.

17. In at least these two cases in the Kalinovik and Foca municipalities, the Republika Srpska government adopted decisions to "transfer the right of ownership" over sites to the local municipality in direct violation of the High Representative's ban. It is vital that this practice ends without further delay and that state and defence property is registered in a manner that respects the existing decisions of the High Representative and is fully consistent with all relevant legal requirements, including the July 2012 ruling of the Bosnia and Herzegovina Constitutional Court.



*Fiscal sustainability*

18. During the reporting period, the Office of the High Representative continued to follow and keep its international partners informed of developments within the Governing Board of the Indirect Taxation Authority. The Governing Board met regularly and worked efficiently under the chairmanship of the Bosnia and Herzegovina Minister of Finance and Treasury. However, the Republika Srpska Finance Minister, who sits on the Board, opposed indirect tax revenue allocation coefficients for the second quarter of 2014 (although the coefficients for the third quarter were adopted unanimously on 4 July), as well as the indirect tax revenue settlement for the second half of 2012 and first half of 2014, for which Republika Srpska owes the Federation approximately €21 million. This calls into question compliance with the Governing Board regulations. The Bosnia and Herzegovina authorities also made a commitment to the International Monetary Fund (IMF) to address these issues.

19. During the reporting period, my Office also followed developments with the Bosnia and Herzegovina Fiscal Council, which met infrequently over the past six months — twice in relation to the IMF Standby Arrangement and once to adopt the Global Framework of Fiscal Balance and Policies of Bosnia and Herzegovina for the Period 2015-2017. While the adoption of the Global Fiscal Framework is a welcome step towards facilitating the preparation of budgets for 2015, this is the fourth year in a row that the state institutions' share of indirect tax revenue is locked at the same level. This runs contrary to commitments made by the members of the Bosnia and Herzegovina Fiscal Council under the Global Fiscal Framework for 2013-2015 (to increase the state's share by €15 million in 2015) and under the Global Fiscal Framework for 2014-2016 (to adjust the state's share in 2015 to indirect tax revenue performance, which would amount to a 2.1 per cent increase).

*Brcko District*

20. In June, the Brcko District Mayor's extremely ill-judged presence at the welcoming ceremony for Dario Kordić, a convict released from the International Tribunal for the Former Yugoslavia, triggered a fierce reaction from Bosniak representatives in the District, who requested his resignation. Ultimately, the ruling coalition was able to survive the crisis following a reshuffling of the majority in the Brcko District Assembly.

21. Pursuant to the Final Award of the Arbitral Tribunal for Dispute over the Inter-Entity Boundary in the Brcko Area and the Bosnia and Herzegovina Election Law, District residents may declare citizenship in one of the two entities. This is one of the conditions for Brcko residents to vote in the general elections. During the reporting period, the Office of the High Representative assisted the Brcko District Election Commission and the Brcko District Public Records Department as they worked together with the Bosnia and Herzegovina Central Election Commission and the Agency for Identification Documents, Registers and Data Exchange to ensure sufficient administrative access to District residents for declaring their entity citizenship. By 28 August 2014, 45,247 (53 per cent of) registered voters in the Brcko District had declared their entity citizenship, with a possibility for all other voters in Brcko to do this by election day and to then vote by tendered ballot.

## D. Challenges to the General Framework Agreement for Peace

### *Challenges to the sovereignty and territorial integrity of Bosnia and Herzegovina*

22. During the reporting period, officials of the ruling Alliance of Independent Social Democrats party in Republika Srpska continued their long-standing practice of directly questioning and challenging the sovereignty and territorial integrity of Bosnia and Herzegovina, referring to Republika Srpska as already possessing elements of statehood and openly advocating for secession and the dissolution of the state of Bosnia and Herzegovina.<sup>3</sup> While officials of Republika Srpska have sometimes presented an ultimatum to others that Bosnia and Herzegovina will dissolve if the entities are not granted additional autonomy,<sup>4</sup> the President of Republika Srpska, Milorad Dodik, has repeatedly stated that the dissolution of Bosnia and Herzegovina is inevitable<sup>5</sup> and that the main goal of his policy is to wait for the right circumstances and proclaim the independence of Republika Srpska.<sup>6</sup> Although the President of Republika Srpska continues to be the most frequent and vocal exponent of state dissolution, during the reporting period he was joined by other officials of his party, both at the level of Republika Srpska and the Bosnia and Herzegovina institutions.<sup>7</sup> The President of Republika Srpska has also advocated

<sup>3</sup> “One day we will have to relieve ourselves of that un-freedom which is called Bosnia and Herzegovina ... There is no consensus for the life of Bosnia and Herzegovina ... It is necessary to strengthen Republika Srpska so it can declare independence one day ...”, President of Republika Srpska, Milorad Dodik, *Nezavisne Novine*, 4 July 2014; “Today Serbs with their two states — Serbia and Republika Srpska can be an advantage and stabilizer of regional peace and development”, President of Republika Srpska, Milorad Dodik, *SRNA*, 4 September 2014.

<sup>4</sup> “What I think is a minimum for us to stay in Bosnia and Herzegovina is a confederate organization or even a union of two or three republics or states”, President of Republika Srpska, Milorad Dodik, *Tanjung*, 5 October 2014.

<sup>5</sup> “In the former Yugoslavia, Bosnia and Herzegovina was treated as a ‘small Yugoslavia’ ... . Is it logical, is there any historical or any other sense, to break apart the big Yugoslavia and say it cannot function because its peoples hate each other and then you have that small Yugoslavia and request it to function on the principle of the big one? Of course it cannot”, President of Republika Srpska, Milorad Dodik, *Happy TV (Cirilica interview)*, 8 September 2014.

<sup>6</sup> “When we took power in 2006, the main question was whether Republika Srpska would survive and the question now is whether Bosnia and Herzegovina will survive”, President of Republika Srpska, Milorad Dodik, *PRESS*, 9 October 2014; “The idea of Republika Srpska as a state has never been lost, it was pushed to the background a little, and now we have completely rehabilitated it and put it on the agenda. I am convinced the Serb entity will gain its independence and would like to be the man to head that process”, President of Republika Srpska, Milorad Dodik, *NES Radio*, 10 September 2014; “My political programme is to strengthen the autonomy of Republika Srpska until it accomplishes its independence ...”, President of Republika Srpska, Milorad Dodik, *Politika*, 20 July 2014; “And should we stay, you can count on Republika Srpska taking strong steps towards the independence as of 2014”, President of Republika Srpska, Milorad Dodik, *Novi Pecat*, 1 July 2014; “There are ‘pro-Serb forces’ which exclusively fight for Republika Srpska, its Dayton position, strengthening its autonomy up to the moment when it would declare independence”, President of Republika Srpska, Milorad Dodik, *FENA*, 27 June 2014; “I am ready to invest all remaining ideas in my life in Republika Srpska independence, because that is my political story”, President of Republika Srpska, Milorad Dodik, *Tanjung*, 17 June 2014.

<sup>7</sup> “Around the world a process is permitted by which a people can declare in what kind of state they wish to live ... You cannot prevent the will of a people by force. There will come a time when no one will be able to stop it”, Bosnia and Herzegovina Presidency member Nebojsa Radmanovic, *Novi Pecat*, 6 August 2014.

openly for the revival of the wartime Herzeg-Bosnia as a Croat state and the dissolution of the Federation entity into two separate states.<sup>8</sup>

23. The sovereignty and territorial integrity of Bosnia and Herzegovina is guaranteed by the Constitution of the country and by international law, including the General Framework Agreement for Peace. Under the Constitution of Bosnia and Herzegovina and the Dayton Peace Agreement, the entities exist as parts of the country and there is no possibility for them to secede. I have reiterated this point on several occasions during the reporting period. Nevertheless, in accordance with my mandate under the Agreement and relevant resolutions of the Security Council, I remain concerned about the destabilizing effect which statements promoting secession have on the situation inside Bosnia and Herzegovina. I am also concerned about the tendency for officials elected or appointed by Republika Srpska to the state-level institutions to use constitutional and decision-making mechanisms at the state level to prevent Bosnia and Herzegovina from moving forward and meeting its international obligations, while then citing this lack of progress at the state-level as a reason why the country should be dissolved.<sup>9</sup>

*Challenges to the competencies of the Bosnia and Herzegovina institutions*

24. On 4 July, the Bosnia and Herzegovina Constitutional Court annulled the controversial Republika Srpska government decision of 17 April regulating applications for residence in Republika Srpska, referring to the matter of residence as an exclusive state competency. Subsequently, the Republika Srpska leadership threatened to adopt a new decision to the same effect, but has not taken such a step during the reporting period. I have made it clear that this issue must be resolved at the state level, while repeating that under annex 4 to the General Framework Agreement for Peace all authorities are obliged to respect final and binding decisions of the Constitutional Court of Bosnia and Herzegovina.

25. During the reporting period, the President of Republika Srpska and other senior officials of Republika Srpska continued public attacks denying the authority

<sup>8</sup> “Yes, I wouldn’t hesitate to support Herzeg-Bosna ... But for it to be a true republic and to have truly all the prerogatives of a state — equal to Republika Srpska ... On the territory of Bosnia and Herzegovina only Republika Srpska is sustainable — it could already at this moment begin with an independent life. And the other sustainable republic or state would be Herceg-Bosna — if it were formed. And Bosniaks would, then, have their Bosnia, as an independent republic or state. Everything else is a pure experiment which has proved unsuccessful”, President of Republika Srpska, Milorad Dodik, *Jutarnji List*, 5 October 2014; “And what the Americans are saying that there can’t be a so-called third or Croat entity in Bosnia and Herzegovina, that doesn’t have to mean anything — they said that about Yugoslavia and it still fell apart. Herzeg-Bosna could well be a reality. Because if Croats truly want it, and if Republika Srpska supports it — then Bosniaks, actually Muslims, are a dramatic minority in all of that”, President of Republika Srpska, Milorad Dodik, *Jutarnji List*, 5 October 2014.

<sup>9</sup> “We have done all we could under the given circumstances and under conditions when nothing within Bosnia and Herzegovina functions. It does not offer anybody the possibility to move ahead and that is why, at a certain historical moment, we will declare independence”, President of Republika Srpska, Milorad Dodik, *Novi Pecat*, 11 September 2014; “I am glad that Bosnia and Herzegovina is in deadlock because the Bosnia and Herzegovina that they have been building before me is unsustainable and it was damaging for Serbs from Republika Srpska. I am glad that he confirmed that the project that I have led is finally an absolute success. We have done all that in accordance with the Constitution of Bosnia and Herzegovina and the Dayton Treaty”, President of Republika Srpska, Milorad Dodik, *RTRS*, 10 May 2014.

of key state institutions established to exercise the responsibilities of the state under the Constitution of Bosnia and Herzegovina and to safeguard the rule of law.<sup>10</sup> Annex IV of the General Framework Agreement for Peace, which is the Bosnia and Herzegovina Constitution, enumerates the responsibilities of the Bosnia and Herzegovina institutions and enables Bosnia and Herzegovina to establish institutions to carry out these competencies. The Bosnia and Herzegovina Constitutional Court has on a number of occasions decided that the Bosnia and Herzegovina Court and Prosecutor's Office were established to exercise those competencies in line with the Constitution.

#### *Threats against personal freedoms*

26. In the pre-election period, the President of Republika Srpska threatened consequences for citizens who expressed themselves against the perceived interests of his party. On 21 August, he announced on television that his party would analyse election results to determine which Bosniak communities in Republika Srpska had supported his party's candidate for the Bosnia and Herzegovina Presidency and which had not, to determine how these communities would be treated by the Republika Srpska authorities.<sup>11</sup> On 13 September, he warned workers of a public company in bankruptcy that they would not receive their court-mandated settlements if they spoke of their plight to a media outlet he deems unfriendly to his political party.<sup>12</sup>

### **III. State-level institutions of Bosnia and Herzegovina**

#### **Presidency of Bosnia and Herzegovina**

27. The Presidency of Bosnia and Herzegovina met regularly during the reporting period, holding 17 sessions in total. Its main focus has been on providing guidance, coordination and — by rebalancing the budget and activating the Bosnia and Herzegovina Armed Forces — assisting in relief efforts for flood-affected areas. In June, the Presidency decided to withdraw the infantry unit of the Bosnia and Herzegovina Armed Forces from the international security mission in Afghanistan. Bosnia and Herzegovina will, however, maintain a presence within the German contingent in northern Afghanistan in addition to contributing to missions in the Congo, Mali, Liberia, South Sudan and Cyprus. These contingents are generally working very well and enjoy wide international community respect.

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<sup>10</sup> "The Court of Bosnia and Herzegovina and the Prosecutor's Office are promoted by the violence of the international community and have demonstrated that they are not places of justice but of injustice and they should not exist. We do not believe in the work of the Bosnia and Herzegovina Prosecutor's Office, and they can do what they want", President of Republika Srpska, Milorad Dodik, *SRNA*, 29 August 2014.

<sup>11</sup> "I call on Bosniak voters in Republika Srpska to think about how they will vote. This is not any kind of threat but only a wish to enter into a partnership. We will check to see which communities voted for Zeljka Cvijanovic. Wherever there were votes in favour of Zeljka Cvijanovic to become a Bosnia and Herzegovina Presidency member, we will be fair to them and try to work with these communities in the best possible way. In other cases, we will not be able to give them anything", President of Republika Srpska, Milorad Dodik, *Federation TV*, 21 August 2014.

<sup>12</sup> "We told them that they would be paid under the court rulings. Today I say it will be so. But I will repeat this: Anyone I see on BN television will not be paid. They can complain to whomever they please", President of Republika Srpska, Milorad Dodik, *Oslobodjenje*, 13 September 2014.

### **Council of Ministers of Bosnia and Herzegovina**

28. The Council of Ministers of Bosnia and Herzegovina continued to meet regularly during the reporting period, holding 27 sessions, mostly focused on technical issues, and adopting various regulatory acts. The Council's overall legislative output remained poor, with only four new laws and five sets of amendments to existing legislation adopted. Adopted legislation included the Law on Obligations in Civilian Air Transportation, the Law on the Procedure for Voting of Foreign Citizens on the Territory of Bosnia and Herzegovina, the Law on Customs Policy and the Law on the Prevention of Money Laundering and Financing of Terrorist Activities (a requirement of the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL)), as well as amendments to the 2014 state budget, reallocating more than KM 7 million for flood-affected areas in Bosnia and Herzegovina.

29. On a positive note, after many years of work by the Bosnia and Herzegovina Ministry of Communications and Transport, the country has moved towards taking over Bosnia and Herzegovina air control responsibilities from neighbouring countries. At a 16 July meeting, the civil aviation authorities and air navigation service providers of Bosnia and Herzegovina, Croatia, Montenegro and Serbia, together with the European Organization for the Safety of Air Navigation, agreed to open the Bosnia and Herzegovina Area Control Centre, which will initially provide air traffic services over parts of the Sarajevo flight information region.

### **Parliamentary Assembly of Bosnia and Herzegovina**

30. The House of Representatives held eight sessions and the House of Peoples five during the reporting period, adopting four new laws (Law on Public Procurement, Law on Witness Protection Programme, Law on Prevention of Money-Laundering and Financing of Terrorist Activities and Law on Electronic Documents) and nine sets of amendments to existing legislation.

31. With the final confirmation of election results expected in late 2014, the current Bosnia and Herzegovina Parliamentary Assembly is not expected to meet again. Over the course of its 2010-2014 mandate, the Assembly adopted 14 new pieces of legislation (including four annual budgets) and amendments to 71 existing laws. By comparison, the 2006-2010 Assembly adopted 58 new laws and amendments to 110 existing laws, as well as the only amendment to date to the Bosnia and Herzegovina Constitution. The contrast with the performance of the 2002-2006 mandate is even more stark.

32. While the performance of a legislature cannot be measured by quantity alone, the poor output of the past four years is indicative of the outgoing Parliamentary Assembly's inability to address important challenges, including those related to Euro-Atlantic integration. In this regard, it is worth noting that the Assembly did not vote on any of the proposals submitted to correct the systematic discrimination addressed by the European Court of Human Rights in the *Sejdic-Finci* case.

33. In analysing the reasons for the Assembly's poor output, political parties bear significant responsibility for focusing too much on political power struggles and coalition reshuffles. It is also significant that the so-called entity majority veto was used on numerous occasions to block legislation that had received support in the Council of Ministers. With the 2014 general elections complete, it is vitally

important that the new Parliamentary Assembly addresses the many crucial reforms needed to bring prosperity to the country.

#### **IV. Federation of Bosnia and Herzegovina**

##### *Progress in making functional the Vital Interest Panel of the Federation Constitutional Court*

34. As previously reported, the Vital Interest Panel of the Federation Constitutional Court has been incapacitated for several years, owing to the failure of relevant authorities to appoint judges to the Court and to this panel within the Court. Because the panel has a role in the legislative process in the Federation, its 10 cantons and the City of Mostar, parties have exploited the lack of a functioning panel to block legislative and other acts indefinitely by referring them to the non-functioning panel.

35. I am pleased to report that the final steps have now been completed to make the panel functional, following the long-standing engagement of the Office of the High Representative with all of the institutions involved to resolve this issue. It was of the utmost importance to have this panel operational before the implementation of the October 2014 election results, to avoid disputes in the government formation process being referred to a non-operational panel, and thereby being blocked indefinitely.

##### *Genocide denial becomes a criminal offence in the Federation*

36. On 18 July, the Federation Parliament adopted amendments to the entity Criminal Code, which make the public denial or justifying of genocide and other war crimes a criminal offence punishable by three months to three years in prison. The legislation defines the war crimes in question as, “genocide, crimes against humanity or perpetrated war crimes, determined by a final and binding decision of the International Court of Justice, the International Tribunal for the Former Yugoslavia or a domestic court”.

##### *Federation constitutional reform*

37. On 23 April, the Federation House of Representatives discussed amendments and initiatives to change the entity Constitution. Although most of the House members agreed that constitutional changes are necessary, the debate demonstrated that political parties hold very different views as to the content of such changes. The Constitutional Commission of the Federation House of Representatives presented a number of options, including abolishing the posts of the Federation President and Vice-Presidents, thereby making the Federation Parliament the centre of political decision-making. The question of the role of the cantons was hotly debated, with the President of the Constitutional Commission promoting the idea that the Federation and its municipalities be strengthened, and cantonal legislative, executive and judicial competences abolished.

##### *Bosnia and Herzegovina Constitutional Court annuls the Federation law on returnee benefits*

38. On 11 April, the Federation Parliament adopted the Law on the Rights of Returnees to their Pre-war Place of Permanent Residence in Republika Srpska and

the Brcko District. Republika Srpska authorities claimed that the law would encourage persons not currently living in Republika Srpska to register their residence there only for the purpose of voting, and 34 deputies of the National Assembly of Republika Srpska filed a request to the Bosnia and Herzegovina Constitutional Court for review of the constitutionality of the law. During the reporting period, the Court determined that the law violates the Bosnia and Herzegovina Constitution and annulled it.

#### *Mostar*

39. Although a communiqué issued by the Steering Board of the Peace Implementation Council in December 2013 underscored that local elections in Mostar should be held no later than October 2014, domestic authorities and political parties failed to take any action during the reporting period to implement the 2010 ruling by the Bosnia and Herzegovina Constitutional Court, which established that the current electoral system in Mostar was unconstitutional. The Mostar Mayor therefore continues in an acting capacity. In consultation with the Head of the Mostar Finance Department, he proclaimed the 2014 Mostar City budget on 29 May. In order to facilitate a breakthrough, on 2 July, my deputy and I sent a letter to the Joint Collegium of the Bosnia and Herzegovina Parliamentary Assembly, with a draft proposal that would have provided a basis for one-time local elections to be held in Mostar in October alongside the general elections. Regrettably, at the time of writing the proposal had not been considered by the Bosnia and Herzegovina Parliamentary Assembly, as a result of which local elections had still not been held.

## **V. Republika Srpska**

40. During the reporting period, the institutions of Republika Srpska convened on a regular basis, functioning against a backdrop of rising tensions between the ruling coalition and the opposition parties as the 12 October general elections approached. On 30 April, the three major opposition parties (Serb Democratic Party, Party for Democratic Progress and Peoples' Democratic Movement) formed the coalition bloc "Alliance for Changes" to run against the current Republika Srpska ruling coalition in the general elections. The opposition campaign focused on economic issues, crime, corruption and nepotism in the entity institutions, while the focus of the campaign of the ruling coalition was on Serb identity and nationalism, including the preservation of Republika Srpska and increased calls for Republika Srpska independence. In this climate, a number of initiatives were taken ahead of the elections, designed to raise ethnic tensions. The erecting of a makeshift cross at one of the locations above Sarajevo from which the city was shelled during the war, three weeks ahead of the general vote, provoked outrage among citizens and political actors in the Federation. Outrage was also provoked by the Republika Srpska President's public praise for indicted war criminals Radovan Karadzic and Ratko Mladic, and his suggestion that streets and public buildings should be named after the two men currently on trial for the Srebrenica genocide.

41. A positive development of note during the reporting period was a 47 per cent increase in the number of registered companies in Republika Srpska over the past six months. The Republika Srpska government attributes this primarily to the new one-stop shop business registration system that has been operational in Republika Srpska since 1 December 2013.

*Non-cooperation with the High Representative*

42. The Republika Srpska authorities have continued their policy of denying the High Representative access to official information and documents required to fulfil his mandate. Under annex X of the General Framework Agreement for Peace, all authorities in Bosnia and Herzegovina are obliged to fully cooperate with the High Representative as well as with international organizations and agencies, as provided for in article IX of the Agreement. The practice of the Republika Srpska government not to provide information and documents requested by the Office of the High Representative goes back to 2007. Repeated calls to the Republika Srpska authorities by the Peace Implementation Council reminding them of their obligation to ensure that the High Representative has full access to documents in a timely fashion, and my most recent letter to the Republika Srpska Prime Minister of 21 March 2014, have had no impact. This policy by the Republika Srpska authorities contradicts the frequently made claim that Republika Srpska respects the letter of the Dayton Peace Agreement.

*Srebrenica/Potocari commemoration*

43. The annual 11 July commemoration for the victims of the 1995 Srebrenica genocide passed without major incident. A further 175 identified victims were buried in 2014 and the number of victims buried at the Memorial Cemetery in Potocari now stands at 6,241. Tensions related to the construction of an orthodox church at a disputed location near the Potocari Memorial Centre and a mass grave remain an issue, with construction and consecration of the church completed in September.

44. On 13 July, associations of victims' families organized visits to several locations in the wider area of Srebrenica and neighbouring municipalities, where men and boys fleeing the Srebrenica enclave were massacred in July 1995. In the Kravica village where victims' families had been denied access to an execution site at a cooperative warehouse for 19 years, families were permitted access in 2014 following a concerted effort led by my Office with local authorities in the Bratunac municipality.

*Tomasica commemoration*

45. On 20 July, a mass burial ceremony was conducted for 284 Bosniak and Croat victims whose remains were found in one of the largest mass graves found to date in Bosnia and Herzegovina in Tomasica, near Prijedor.

## **VI. Entrenching the rule of law**

46. The Structured Dialogue on Justice, launched by the European Union with the authorities in Bosnia and Herzegovina, which I have welcomed, continued to be the forum in which further development of the judiciary and wider justice sector in Bosnia and Herzegovina was discussed. The Office of the High Representative follows elements of this process that relate to the civilian implementation of the General Framework Agreement for Peace, especially those related to the division of competencies between the state of Bosnia and Herzegovina and its entities under the Bosnia and Herzegovina Constitution. One such issue is the ongoing preparation of a draft law on courts of Bosnia and Herzegovina, which my Office will continue to follow closely.



*Anti-corruption efforts*

47. A number of cases during the reporting period highlighted the ongoing challenges Bosnia and Herzegovina faces in tackling corruption. In June, the former Indirect Taxation Authority Director and some 30 customs officials were arrested on charges of organized crime, abuse of office and money-laundering. In September, just ahead of the elections, the Federation Deputy Prime Minister and several others were arrested on charges of tax evasion.

*Justice sector reform strategy*

48. The justice sector reform strategy in Bosnia and Herzegovina expired at the end of 2013. A new strategy for 2014-2018 has been prepared and, following negotiations between different levels of government, was adopted by the Brcko District and Federation. It now remains for the Republika Srpska government and the Bosnia and Herzegovina Council of Ministers to adopt the strategy.

*War crimes prosecution*

49. The Supervisory Board for the Implementation of the War Crimes Prosecution Strategy continued to meet on a regular basis. In June, the Board concluded that it was satisfied with the pace of war crimes processing in Bosnia and Herzegovina. Indicators suggest that the goal of reducing the number of unsolved cases by 5 per cent by September was surpassed. However, the Board continues to note that the goal of prosecuting the most complex war crimes cases by the end of 2015 and other war crimes cases by 2023 is unlikely to be met. A special report on causes for the delay is being prepared. Additional judges and prosecutors to work on war crimes were appointed with the support of the European Union and I hope that this will accelerate the prosecution of war crimes, including in the most complex cases.

## **VII. Public security and law enforcement**

50. Political interference in operational policing continues to be a major challenge. One form of interference is the ongoing practice of delaying appointments of police directors and the formation of the independent boards that select them. In the Posavina Canton, the appointment of the local board has been delayed since March 2011, with the Tuzla, Zenica, and Gorazde Cantons also experiencing delays.

51. The Office of the High Representative continues to monitor changes to police legislation and encourage its harmonization in jurisdictions throughout the country. Despite the Bosnia and Herzegovina Council of Ministers adopting improvements to the Bosnia and Herzegovina Law on Police Officials in April, intended to serve as a model for other levels of governance, there have been no further developments in adopting this legislation.

52. There have been attempts in several jurisdictions to change police legislation without taking into account the overall goal of maintaining harmonized solutions. An uncoordinated attempt to change legislation on internal affairs was prevented in the Gorazde Canton in September 2014 and in the Una-Sana Canton in October 2014. In the Brcko District, problematic legislation regulating police officials was adopted in September 2014.

53. In a positive development, in July 2014, after years of discussions, the Bosnia and Herzegovina Federation Parliament finally adopted a new Federation Law on Internal Affairs. The law makes a number of improvements, including securing budgetary and operational autonomy for the Federation Director of Police. In addition, it represents a workable model for cantonal laws to be similarly improved in a harmonized manner.

## VIII. Economy

### *Economic indicators*

54. Concluding its mission visit on 19 September, IMF cautiously assessed that the economic recovery in Bosnia and Herzegovina had been more resilient to the impact of the May floods than expected, with projected growth in 2014 close to 1 per cent. The economic data of the Bosnia and Herzegovina authorities show a mixed picture. In the first eight months, exports increased by 0.5 per cent, compared with the same period in 2013, while imports increased by 5.6 per cent, and the coverage of imports by exports was 53.9 per cent. Industrial production in August 2014 decreased by 4.5 per cent compared with the previous year. Bosnia and Herzegovina registered deflation of 0.6 per cent in August. The average net salary in August amounted to €422, while the average pension in August amounted to €180. Unemployment and foreign direct investment levels remain a serious concern. Official registered unemployment in August 2014 stood close to 44 per cent (552,319 persons), while foreign direct investment dropped by 54.3 per cent in the first half of 2014 over the same period in 2013.

### *Fiscal issues*

55. A number of risks to fiscal stability became evident during the second quarter of 2014, in particular the floods and uncertainty of IMF and World Bank disbursements caused by delays in the realization of the IMF Standby Arrangement commitments. These risks were mitigated by stable indirect tax revenues. In addition, international disbursements resumed in the third quarter, with IMF releasing €5.7 million under the existing Standby Arrangement and another €5.7 million as an augmentation of the Arrangement to help the country to alleviate the impact of the floods. However, despite the benefits of compliance with the Standby Arrangement, particularly for the entities as the direct financial beneficiaries, IMF mission discussions with Bosnia and Herzegovina authorities in September did not allow for consideration of the eighth review by the IMF Executive Board. As assessed by IMF at the conclusion of its mission visit on 19 September, the outstanding policies include “policies aimed at reining in government spending not directly related to addressing the impact of the floods; improving tax compliance and fighting tax fraud; and strengthening financial sector stability and enhancing banking supervision”.

56. Flood recovery operations undertaken by the state institutions again highlighted the need for these institutions to be reliably and adequately financed. The fact that the budget of the state institutions has been locked at the same level for three years, with no increase foreseen in 2015, could have an impact on the functioning of the state institutions and their ability to meet their obligations, including those relevant for the European Union and NATO.

*Non-compliance with international obligations*

57. During the reporting period, the non-compliance of Bosnia and Herzegovina with its international obligations related to money-laundering and the financing of terrorism, as well as in the energy sector, posed threats of sanctions. On 1 June, MONEYVAL issued a public statement under step 3 of its compliance enhancing procedures, calling on states and territories to advise their financial institutions to apply enhanced due diligence measures to transactions with persons and financial institutions from or in Bosnia and Herzegovina to address money-laundering and financing of terrorism risks. The statement resulted from the long-standing failure of Bosnia and Herzegovina to address deficiencies that have been of concern to MONEYVAL since December 2010, in particular by adopting necessary amendments to the Bosnia and Herzegovina Anti-Money-Laundering and Counter-Financing of Terrorism Law, as well as to the Bosnia and Herzegovina Criminal Code. Both pieces of legislation were opposed by Republika Srpska representatives, who saw them as an expansion of state competences. Although the amendments to the Bosnia and Herzegovina Anti-Money-Laundering and Counter-Financing of Terrorism Law were eventually adopted in June, the amendments to the Bosnia and Herzegovina Criminal Code had still not been adopted at the time of writing. As a consequence, on 19 September MONEYVAL reiterated its 1 June statement advising due diligence in transactions with persons and financial institutions from or in Bosnia and Herzegovina. In case of a continued failure to adopt the amendments to the Bosnia and Herzegovina Criminal Code, Bosnia and Herzegovina may face additional measures. The next on-site MONEYVAL evaluation is scheduled for mid-November.

58. At its 23 September meeting in Kiev, the Energy Community Ministerial Council declared “the existence of a serious and persistent breach by Bosnia and Herzegovina of its obligations in the gas sector”. The declaration results from the country’s long-standing failure to adopt legislation requested by the Ministerial Council in this sector. Representatives in state institutions from Republika Srpska have persistently opposed the regulation of certain aspects of the gas sector at the state level, such as the establishment of a state regulator, seeing this as an expansion of state competences. The Ministerial Council invited the Energy Community Secretariat to assist Bosnia and Herzegovina in drafting the requested legislation, which Bosnia and Herzegovina committed to present to the Ministerial Council in 2015. The Council also recalled the possibility of imposing sanctions at its next meeting.

## **IX. Return of refugees and displaced persons**

59. Upholding the right of refugees and displaced persons to return to their pre-war homes remains central to the full implementation of the General Framework Agreement for Peace, annex VII of which requires state and entity level authorities “to create in their territories the political, economic and social conditions conducive to the voluntary return and harmonious reintegration of refugees and displaced persons, without preference for any particular group”. As previously reported, there are a number of examples throughout the country highlighting the failure of authorities to create these conditions.

60. Given the outstanding obstacles to the full implementation of annex VII and the current political situation, I continue to view a possible recommendation by the High Commissioner for Refugees on the cessation of refugee status for refugees

from Bosnia and Herzegovina as problematic, also in light of the expected political fallout from the future announcement of census results. Therefore, I recommend a new process of consultations with Bosnia and Herzegovina authorities at all levels and international organizations present in Bosnia and Herzegovina dealing with these issues following the post-election establishment of new governments in Bosnia and Herzegovina.

61. Divisions and discrimination within the education sector remain obstacles for the sustainable return of refugees and displaced persons to communities where their group is not a numerical majority. Education must be urgently addressed by the incoming authorities to raise standards throughout the country based on the principles of non-discrimination, non-segregation and inclusiveness.

## **X. Media developments**

62. Given the role played by media controlled by competing groups in encouraging conflict during the 1992-1995 war in Bosnia and Herzegovina, efforts were initiated several years ago to ensure the independence of public broadcasters, as well as their cooperation within a single system. These reforms stalled owing to political disagreements about the relationship between the public broadcasters and the various levels of government in Bosnia and Herzegovina. At the same time, the public broadcasters, in particular the two entity television channels, are not free from political influence.

63. More specifically, seven years have passed since the adoption of state-level legislation requiring the public broadcasters within Bosnia and Herzegovina to establish the umbrella Public Broadcasting Corporation and implement key reforms to make more efficient use of resources and coordinate within a single system, with no action taken towards registration. The financial sustainability of the system is also under question as transitional provisions regulating the method for collecting taxes to finance the public broadcasters are due to expire in less than six months. In addition, the continuing failure of the Council of Ministers to appoint a new director to the state-level Communications Regulatory Agency has crippled the institution that regulates and oversees public and private electronic media (television and radio) throughout the country.

## **XI. Defence matters**

64. During the reporting period, slow but consistent progress on surplus munitions demilitarization and destruction continued. The Ministry of Defence and Armed Forces of Bosnia and Herzegovina have continued to improve the control and management of the country's ammunition, weapons and explosive stockpiles. The international community continues to support the development of an improved process for inspecting ammunition stockpiles in addition to facilitating the disposal of surplus ammunition and weapons under the 2008 agreement on the final disposal of all rights and obligations over movable property that will continue to serve defence purposes. Nevertheless, the risk of accidental explosion still exists, owing to ageing ammunition and poor storage conditions. No further progress has been made by the Bosnia and Herzegovina authorities to agree on a mechanism through which surplus stockpiles could be sold.

65. Bosnia and Herzegovina continues to meet its obligations under the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction. Bosnia and Herzegovina also continues to conduct comprehensive public safety activities on mines and unexploded ordnance.

## **XII. European Union military mission**

66. The European Union military mission in Bosnia and Herzegovina continues to play a vital role in supporting the efforts of Bosnia and Herzegovina to maintain a safe and secure environment. This, in turn, assists the Office of the High Representative and international organizations to fulfil their respective mandates. EUFOR played a crucial role during the reporting period in assisting the Bosnia and Herzegovina Armed Forces flood-relief effort. Its presence on the ground, including through its liaison and observation teams, continues to have a positive and stabilizing effect and to reassure citizens from all ethnic groups, in particular those who have returned to their pre-war homes. This is particularly important at a time when senior politicians continue to use destabilizing and provocative rhetoric.

## **XIII. Future of the Office of the High Representative**

67. The Peace Implementation Council Steering Board political directors met in Sarajevo on 21 and 22 May 2014 to underline their unequivocal commitment to the territorial integrity and sovereignty of Bosnia and Herzegovina. The Steering Board also reinforced the need to meet the five objectives and two conditions that remain necessary for the closure of the Office of the High Representative. The next meeting of the Steering Board is scheduled for 9 and 10 December 2014.

68. My Office continues its responsible efforts to realize budgetary savings where possible, which was once again reflected in a reduction of 8 per cent in the 2014-2015 budget over the previous year. Since the beginning of my mandate, the budget of my Office has been reduced by over 41 per cent and my staff by over 51 per cent. More than ever, it remains essential that I am equipped with the budget and staff required to carry out my mandate effectively.

## **XIV. Reporting schedule**

69. In keeping with the proposals of my predecessor to submit regular reports for onward transmission to the Security Council, as required by Security Council resolution 1031 (1995), I herewith present my twelfth regular report. Should the Secretary-General or any Council member require information at any other time, I would be pleased to provide an additional written update. The next regular report to the Secretary-General is scheduled for April 2015.