

30. Items relating to the situation in the former Yugoslavia

A. The situation in Bosnia and Herzegovina

Decision of 25 June 2004 (4997th meeting): statement by the President

By a letter dated 19 February 2004 addressed to the President of the Security Council, the Secretary-General transmitted the twenty-fifth report of the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina.¹ In the report, the High Representative stated that he remained committed to his overarching objective of ensuring that Bosnia and Herzegovina was put irreversibly on the road to statehood and the European Union. His priorities centred on consolidating the rule of law and advancing economic reform — “justice and jobs” — while further improving the functioning and effectiveness of the key governing institutions of Bosnia and Herzegovina. With regard to the mandate of his Office, he reported, inter alia, measurable progress in several key areas, including in the field of the rule of law, indirect tax policy, defence reform, intelligence reform and the setting up of a domestic war crimes chamber. In addition, he reported that the principal targets for the transition to domestic leadership of responsibilities concerning the right to return of refugees had been achieved and that the Reconstruction and Return Task Force of the Office of the High Representative could be closed down, having successfully completed its mandate. With regard to the political environment, the High Representative observed that relations in the ruling coalition remained strained, sustaining parallelism along ethnic lines, in spite of the constitutional changes that had been introduced two years earlier. In addition, the reporting period had been marked by political clashes between the Government and the opposition in advance of the municipal elections that were to be held in October 2004. He reported that the European Union Police Mission, as well as its programmes aimed at creating sustainable policing arrangements under Bosnia and Herzegovina ownership and in line with the best European and international standards, had become a well-established feature of police life in Bosnia and Herzegovina. The High Representative also reported on an increasing number of legal challenges to the police certification process that had been conducted by the

International Police Task Force as a part of the United Nations Mission in Bosnia and Herzegovina (UNMIBH) until the end of its mandate in December 2002. He reported that those challenges could lead to the reinstatement of police officers who had been denied certification by the Task Force. He held that this posed a serious threat to the United Nations policing legacy and could cause grave damage to the reputation of the United Nations in Bosnia and Herzegovina. He emphasized that this matter required immediate attention by the United Nations and that, although he had repeatedly sought advice from the United Nations on that matter, a satisfactory and workable solution had so far not been found.

At its 4920th meeting, on 3 March 2004, the Security Council included in its agenda the above-mentioned letter dated 19 February 2004 from the Secretary-General.¹ The Council heard briefings by the High Representative, the Under-Secretary-General for Peacekeeping Operations and the Chairman of the Council of Ministers of Bosnia and Herzegovina, following which statements were made by all members of the Council and the representatives of Ireland (speaking on behalf of the European Union)² and Croatia.

In his briefing, the High Representative pointed out that Bosnia and Herzegovina had two clear and achievable goals to aim for: accession to the North Atlantic Treaty Organization (NATO) Partnership for Peace programme and the start of negotiations for a Stabilization and Association Agreement with the European Union. He highlighted the new collegial atmosphere in the Council of Ministers and the high degree of statesmanship and leadership within the political community, but warned that the reform process remained hamstrung by an overburdened agenda, residual obstructionism and the dysfunctional aspects of the structures of the Dayton Agreement. He emphasized that the economy remained his main worry.³

¹ S/2004/126.

² Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Iceland, Latvia, Liechtenstein, Lithuania, Malta, Norway, Poland, Romania, Slovakia, Slovenia and Turkey aligned themselves with the statement.

³ S/PV.4920, pp. 2-9.

The Under-Secretary-General, speaking on the legal challenges to the police certification process conducted by the International Police Task Force, underlined the political importance of the problem and the need for an early solution. He recalled that the authorities of Bosnia and Herzegovina had been and remained under an obligation, binding under international law, to give effect to the decisions of the Task Force, and held that the support of the Council would be of critical importance in reminding the authorities of those obligations.⁴

The Chairman of the Council of Ministers of Bosnia and Herzegovina held that his country was a positive example of how intervention by the international community could be effective and of how a post-conflict country could become an active participant in the process of regional stabilization. He assured the Council that his Government would continue with the entire process of reform. In addition, he pointed to the imminent replacement of the NATO forces with a task force of the European Union and expressed his expectation that the Council would be fully involved in defining the precise mandate of the new task force.⁵

In their statements following the briefings, most of the speakers agreed with the assessments by the High Representative and recognized the progress achieved. In addition, several speakers expressed concern at the legal challenges to the police officer certification process and called for consideration of the issue by the Council.⁶ A number of speakers reiterated the need to intensify efforts to bring fugitive war criminals, especially Radovan Karadžić and Ratko Mladić, before the International Tribunal for the Former Yugoslavia.⁷ The representative of the Russian Federation held that the exceptional executive powers of the High Representative should be used only in exceptional cases and with a mandatory prior agreement with the members of the Steering Board of

the Peace Implementation Council.⁸ The representative of Ireland, speaking on behalf of the European Union, stated that the European Union had confirmed its readiness to undertake a follow-on mission to the NATO Stabilization Force (SFOR).⁹

At its 4997th meeting, on 25 June 2004, the Council again included in its agenda the letter from the Secretary-General.¹⁰ The Council extended an invitation to the representative of Bosnia and Herzegovina to participate in the meeting. At the meeting, the President (Philippines) made a statement on behalf of the Council,¹¹ by which the Council, *inter alia*:

Recalled its relevant resolutions and its support for the General Framework Agreement for Peace in Bosnia and Herzegovina;

Reaffirmed the legal basis in the Charter of the United Nations on which the International Police Task Force was given its mandate;

Affirmed that the certification process was carried out pursuant to the mandate of Task Force and fully endorsed this process;

Expressed concern at the failure of the competent authorities in Bosnia and Herzegovina to take due steps to implement decisions to deny certification;

Called upon the Bosnia and Herzegovina authorities to ensure that all decisions of the Task Force were fully implemented and that the employment of any persons denied certification by the Task Force be terminated, and that such persons would be precluded from employment, either now or in the future, in any position within any law enforcement agency in Bosnia or Herzegovina.

**Decision of 9 July 2004 (5001st meeting):
resolution 1551 (2004)**

At its 5001st meeting, on 9 July 2004, the Council extended an invitation to the representatives of Bosnia and Herzegovina and Italy to participate in the meeting. The President (Romania) drew the attention of the Council to a letter dated 29 June 2004 from the representative of Ireland, transmitting a letter from the Minister for Foreign Affairs of Ireland and President of the Council of the European Union concerning the intention of the European Union to launch a European Union mission following the decision by NATO to

⁴ *Ibid.*, p. 9.

⁵ *Ibid.*, pp. 9-11.

⁶ *Ibid.*, pp. 12-13 (Russian Federation); pp. 13-14 (Spain); pp. 15-17 (Germany); pp. 17-18 (United Kingdom); pp. 18-19 (Philippines); pp. 23-24 (United States); and p. 26 (France).

⁷ *Ibid.*, pp. 17-18 (United Kingdom); pp. 18-19 (Philippines); pp. 22-23 (Pakistan); pp. 23-24 (United States); pp. 26-28 (Ireland, on behalf of the European Union).

⁸ *Ibid.*, pp. 12-13.

⁹ *Ibid.*, pp. 27-28.

¹⁰ S/2004/126.

¹¹ S/PRST/2004/22.

terminate the Stabilization Force in Bosnia and Herzegovina in December 2004.¹² A draft resolution, submitted by France, Germany, Italy, Romania, the Russian Federation, Spain, the United Kingdom and the United States,¹³ was then put to the vote and adopted unanimously and without debate as resolution 1551 (2004), by which the Council, acting under Chapter VII of the Charter of the United Nations, inter alia:

Called upon the parties to comply strictly with their obligations under the General Framework Agreement and the Dayton Agreement, and expressed its intention to keep their implementation, and the situation in Bosnia and Herzegovina, under review; welcomed the decision of NATO to conclude its current SFOR operation by the end of 2004;

Further welcomed the intention of the European Union to launch a mission to Bosnia and Herzegovina, including a military component, from December 2004;

Authorized the Member States acting through or in cooperation with the organization referred to in annex 1-A of the Peace Agreement to continue for a further planned period of six months the multinational stabilization force as established in accordance with its resolution 1088 (1996) under unified command and control in order to fulfil the role specified in annexes 1-A and 2 of the Peace Agreement;

Authorized the Member States acting under paragraph 11 of the resolution to take all necessary measures to effect the implementation of and to ensure compliance with annex 1-A of the Peace Agreement;

Authorized Member States to take all necessary measures, at the request of SFOR, either in defence of SFOR or to assist the Force in carrying out its mission;

Demanded that the parties respect the security and freedom of movement of SFOR and other international personnel;

Decided that the status-of-forces agreements should apply provisionally in respect to the proposed European Union mission and its forces.

Decision of 22 November 2004 (5085th meeting): resolution 1575 (2004)

At its 5075th meeting, on 11 November 2004, the Council included in its agenda a letter dated 8 October 2004 from the Secretary-General addressed to the President of the Council, by which he transmitted the twenty-sixth report of the High Representative for the Implementation of the Peace Agreement on Bosnia and

Herzegovina.¹⁴ In his report, the High Representative, inter alia, observed significant progress in all core tasks of the Office of the High Representative, including in the field of the rule of law, reforming the economy, strengthening the capacity of Bosnia and Herzegovina institutions and defence reform. In addition, he reported that while Bosnia and Herzegovina was within reach of the NATO Partnership for Peace and the launch of negotiations with the European Union for the conclusion of a Stabilization and Association Agreement, it had failed to meet the benchmarks required for entry into the Partnership for Peace programme at the Istanbul Summit of NATO, because “a small number of obstructionist elements” in the Republika Srpska had prevented the Republika Srpska and Bosnia and Herzegovina from fulfilling their obligations to cooperate fully with the International Tribunal for the Former Yugoslavia. The High Representative also reported that on 12 July 2004 the European Council had issued its decision to replace the NATO Stabilization Force with a European Union peacekeeping force by the beginning of 2005.

At the meeting, the Council heard briefings by the High Representative, the Deputy Chairman of the Council of Ministers and Minister for Foreign Affairs of Bosnia and Herzegovina and the Secretary-General of NATO. At the same meeting, statements were made by all members of the Council, as well as by the representatives of Japan and the Netherlands (speaking on behalf of the European Union).¹⁵

In his briefing, the High Representative, inter alia, said that the handover from NATO would allow the European Union bring together all its assets in Bosnia and Herzegovina under his coordination, including the European Union-led force (EUFOR), the European Union Police Mission, the European Union Monitoring Mission and the European Commission delegation. He also called for an unambiguous and firm message from the Council to the leaders of the Republika Srpska with regard to cooperation with the International Tribunal for the Former Yugoslavia. On the issue of legal challenges to the police certification process by International Police Task Force, the High Representative reported that following the presidential statement issued by the Council in June 2004, the Presidency of Bosnia and Herzegovina had requested

¹² S/2004/522.

¹³ S/2004/545.

¹⁴ S/2004/807.

¹⁵ Bulgaria, Croatia, Iceland, Romania and Turkey aligned themselves with the statement.

all competent national authorities to harmonize their laws in order to give full effect to the United Nations certification decisions. Nevertheless, as there had been examples of procedural shortcomings, the High Representative held that there was a need to find a solution with respect to those problematic cases.¹⁶

The Deputy Chairman of the Council of Ministers and Minister for Foreign Affairs of Bosnia and Herzegovina fully recognized that cooperation with the International Tribunal for the Former Yugoslavia remained one of the greatest obstacles for Bosnia and Herzegovina in Euro-Atlantic integration processes, but held that there was a firm political commitment to arrest the indicted war criminals and that several attempts at arrests had recently been made by the authorities of the Republika Srpska. On a different note, he drew the attention of the Council to the fact that the recent reforms in Bosnia and Herzegovina would not have been possible without the readiness of the institutions and the politicians of Bosnia and Herzegovina to take responsibility and to make necessary compromises and that not a single law had been imposed by the High Representative in the preceding year. He therefore expressed his conviction that the time had come to consider the review of the mandate of the High Representative, including his extraordinary executive powers, and assured the Council that the authorities of Bosnia and Herzegovina were more than ready to assume full power and responsibility for the future of the country.¹⁷

Most speakers welcomed the report by the High Representative and the envisaged transition from SFOR to EUFOR. Many speakers also attached great importance to bringing to justice the war criminals indicted by the International Tribunal for the Former Yugoslavia.

The representative of the Russian Federation held that while the affirmed dedication of the western Balkan countries to the European perspective could be used as an additional stabilizing factor in the region, the most important issue, in his view, remained the implementation of the Dayton Agreement, which, he held, should not be reduced to the conditions identified by the European Union for the start of negotiations for the Stabilization and Association Agreement and to the requirements of the NATO Partnership for Peace

programme. He also maintained that the responsibility for the problems that continued to exist in Bosnia and Herzegovina should not be attributed solely to the Serbs. In addition, while cooperation with the International Tribunal for the Former Yugoslavia was an important element of the Dayton Agreement and the Russian Federation favoured the strictest compliance with relevant Security Council resolutions, it did not consider that the stability of Bosnia and Herzegovina and the peace process as a whole should be held hostage to that specific aspect of the Dayton Agreement.¹⁸

The representative of the Netherlands, speaking on behalf of the European Union, underlined the significance of the first European Union peacekeeping mission for Bosnia and Herzegovina — as a final element in the comprehensive policy of the European Union towards Bosnia and Herzegovina — but also for the European Union and the United Nations. He held that regional organizations had an increasingly important role to play in peacekeeping and peacebuilding.¹⁹

In his briefing, the Secretary-General of NATO said that NATO and the United Nations had found increasing scope for cooperation in peace operations. He held that, given the improved state of security in Bosnia and Herzegovina, it was the right time to terminate the Stabilization Force, and he stated that he looked forward to a Security Council resolution authorizing the handover of responsibilities from NATO to the European Union. He reported that NATO would retain a military presence in the country, which would provide advice on defence reform and would remain engaged in bringing indicted war criminals to justice.²⁰

At its 5085th meeting, on 22 November 2004, the Council extended an invitation to the representative of Bosnia and Herzegovina to participate in the meeting. The President (United States) drew the attention of the Council to three letters dated 19 November 2004 addressed to the President of the Security Council.²¹ The first letter, from the representative of Germany, transmitted a letter from the Secretary-General of NATO to the High Representative of the European

¹⁶ S/PV.5075, pp. 2-7.

¹⁷ Ibid., pp. 7-10.

¹⁸ Ibid., pp. 12-14.

¹⁹ Ibid., pp. 23-25.

²⁰ S/PV.5075 (Resumption 1), pp. 2-4.

²¹ S/2004/915, S/2004/916 and S/2004/917.

Union regarding the changes in the administration of the activities of the General Framework Agreement for Peace in Bosnia and Herzegovina. The second, from the representative of the Netherlands, transmitted a letter from the High Representative of the European Union to the Secretary-General of NATO regarding the respective roles of NATO and the European Union after the transition from the Stabilization Force operation in Bosnia and Herzegovina to EUFOR operation ALTHEA, while the third letter, from the representative of Bosnia and Herzegovina, transmitted a letter from the Chairman of the Presidency of Bosnia and Herzegovina concerning the status of EUFOR and the continuation of NATO presence in Bosnia and Herzegovina and confirming the acceptance of EUFOR and NATO as the legal successors of the SFOR mission and mandate.

A draft resolution²² was then put to the vote and adopted unanimously and without a debate as resolution 1575 (2004), by which the Council, acting under Chapter VII of the Charter, *inter alia*:

Acknowledged the support of the authorities of Bosnia and Herzegovina for the European Union force and the continued NATO presence and their confirmation that both are the legal successors to SFOR for the fulfilment of their missions for the purposes of the Peace Agreement;

Authorized the Member States acting through or in cooperation with the European Union to establish for an initial planned period of 12 months a multinational stabilization force (EUFOR) as a legal successor to SFOR under unified command and control;

Authorized the Member States to take all necessary measures to effect the implementation of and to ensure compliance with annexes 1-A and 2 of the Peace Agreement, stressed that the parties should continue to be held equally responsible for compliance with those annexes and be equally subject to such enforcement action by EUFOR and the NATO presence as might be necessary to ensure implementation of those annexes and the protection of EUFOR and the NATO presence;

Authorized Member States to take all necessary measures, at the request of either EUFOR or the NATO Headquarters, in defence of EUFOR or the NATO presence respectively, and to assist both organizations in carrying out their missions.

²² S/2004/920.

Decision of 21 November 2005 (5307th meeting): resolution 1639 (2005)

At its 5147th and 5306th meetings,²³ the Security Council included in its agenda letters from the Secretary-General addressed to the President of the Security Council, transmitting consecutive reports of the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina.²⁴ In his reports, the High Representative described the progress made by Bosnia and Herzegovina in fulfilling the conditions for opening negotiations with the European Union on a stabilization and association agreement. He reported that the outstanding conditions required by the European Commission feasibility study were legislation on public broadcasting and an agreement on police restructuring, which had been blocked by the Government of the Republika Srpska. In the same period, failure to arrest Radovan Karadžić and Ratko Mladić precluded the admission of Bosnia and Herzegovina to the NATO Partnership for Peace, despite an improved level of cooperation between the Republika Srpska and the International Tribunal for the Former Yugoslavia. The High Representative warned that, as a consequence of those blockages, Bosnia and Herzegovina risked falling behind all its neighbours on the road to Euro-Atlantic integration. In addition, the High Representative reported on the transition from SFOR, which was formally terminated on 2 December 2004, to EUFOR, as well as on progress in defence reform, intelligence reform and economic reform. He informed the Council that, in order to encourage increasing local ownership and responsibility, the Office of the High Representative had minimized the number of instances where it used its extraordinary executive powers in order to impose legislation, and that he had initiated a process of reviewing past decisions banning specified persons from participating in all political and public life. In addition, the High Representative reported that the Federation Supreme Court had declared that negative decisions of the International Police Task Force on certification of police officers were inviolable.

At the meetings, the Council heard briefings by the High Representative. Statements were made by all members of the Council, and on behalf of the European

²³ Held on 23 March 2005 and 15 November 2005, respectively.

²⁴ Letters dated 10 March 2005 (S/2005/156) and 7 November 2005 (S/2005/706).

Union,²⁵ as well as by the representatives of Bosnia and Herzegovina²⁶ and Italy.

In his briefings, the High Representative elaborated on his reports, specifically highlighting the increased cooperation of the Republika Srpska with the International Tribunal for the Former Yugoslavia, which had transferred or assisted in the transfer of 12 indictees, but expressed regret that Radovan Karadžić and Ratko Mladić remained at large.²⁷ In his briefing at the 5306th meeting, on 15 November 2005, the High Representative reported that there had been a breakthrough in both police restructuring and defence reform, with agreement in both cases that responsibilities would be transferred to the State level. As a consequence, he expressed the hope that the negotiation mandate for the Stabilization and Association Agreement would be approved at the meeting of the Council of the European Union on 21 November 2005. He expressed his belief that the signing of that agreement would “herald the end of heavyweight international intervention in Bosnia and Herzegovina”, and reported that the Peace Implementation Council had made it clear that, once the negotiations for a Stabilization and Association Agreement were under way, the use of the extraordinary executive powers should be phased out and the Office of the High Representative replaced with a structure led by the European Union Special Representative. In addition, the High Representative reported on progress concerning constitutional reform. While remaining essential as a foundation for peace, in his view, the Dayton Constitution had reached the end of its utility as a framework for the next phase of the reform process. The process of constitutional reform, however, would have to be agreed upon by the domestic institutions in Bosnia and Herzegovina themselves and could not be imposed by the international community. In addition, the High

Representative encouraged the Council to set up a review mechanism for the police certification process conducted by the Task Force to review problematic decisions where credible evidence existed that the right procedures had not been followed.²⁸

The representative of Bosnia and Herzegovina, at those meeting, strongly advocated a handover of responsibilities from the Office of the High Representative to the authorities of Bosnia and Herzegovina.²⁹

Most speakers agreed with the assessments contained in the reports of the High Representative.³⁰ Several speakers suggested that it might be time for a new role for the international community and the High Representative. The representative of the Russian Federation called for a prompt transfer of responsibilities to the Bosnian parties.³¹ However, the representative of Denmark warned that adjustments to the extraordinary executive powers of the High Representative should be contemplated only in a measured way and with due attention to the risks of new crises in Bosnia and Herzegovina.³²

At its 5307th meeting, on 21 November 2005, the Council included in its agenda a letter dated 2 November 2005 from the Secretary-General, transmitting a report on the activities of EUFOR,³³ and the above-mentioned letter dated 7 November 2005, transmitting the twenty-eighth report of the High Representative.³⁴ The Council then invited the representatives of Bosnia and Herzegovina, Germany and Italy to participate in the meeting. The President (Russian Federation) drew the attention of the Council to a draft resolution³⁵ and read out minor changes to the twentieth preambular paragraph of that draft resolution. It was then put to the vote as orally revised and adopted unanimously and without debate as resolution 1639 (2005), by which the Council, acting under Chapter VII of the Charter, *inter alia*:

Authorized the Member States acting through or in cooperation with the European Union to establish for a further

²⁵ At the 5147th meeting, the representative of Luxembourg made the statement on behalf of the European Union; Bulgaria, Croatia, Norway, Romania and Turkey aligned themselves with the statement. At the 5306th meeting, the representative of the United Kingdom spoke on behalf of the European Union; Bulgaria, Iceland, the Republic of Moldova, Romania, Turkey and Ukraine aligned themselves with the statement.

²⁶ At the 5147th meeting, Bosnia and Herzegovina was represented by the Minister of Security.

²⁷ S/PV.5147, pp. 2-6; and S/PV.5306, pp. 2-7.

²⁸ S/PV.5306, pp. 2-7.

²⁹ S/PV.5147, pp. 6-7; and S/PV.5306, pp. 18-19.

³⁰ S/PV.5306, pp. 8-9 (United Kingdom); p. 14 (France); p. 15 (Argentina); p. 17 (Brazil); and pp. 19-20 (Italy).

³¹ *Ibid.*, p. 18.

³² *Ibid.*, p. 13.

³³ S/2005/698.

³⁴ S/2005/706.

³⁵ S/2005/727.

period of 12 months a multinational stabilization force (EUFOR) as a legal successor to SFOR under unified command and control;

Authorized the Member States to take all necessary measures to effect the implementation of and to ensure compliance with annexes 1-A and 2 of the Peace Agreement;

Authorized Member States to take all necessary measures, at the request of either EUFOR or the NATO Headquarters, in defence of EUFOR or the NATO presence respectively, and to assist both organizations in carrying out their missions, and recognized the right of both EUFOR and the NATO presence to take all necessary measures to defend themselves from attack or threat of attack;

Authorized the Member States, in accordance with annex 1-A of the Peace Agreement, to take all necessary measures to ensure compliance with the rules and procedures governing command and control of airspace over Bosnia and Herzegovina with respect to all civilian and military air traffic.

Decision of 21 November 2006 (5567th meeting): resolution 1722 (2006)

At its 5412th meeting, on 8 April 2006, the Council heard briefings by the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina and the Chairman of the Council of Ministers of Bosnia and Herzegovina. Statements were made by most members of the Council,³⁶ as well as by the representatives of Austria (on behalf of the European Union)³⁷ and Turkey.

In his briefing, the new High Representative emphasized that the phase of post-war reconstruction was coming to an end and that his key task was to oversee the end of the Office of the High Representative, which would also mean the end of its extraordinary executive powers, and the full establishment of the Office of the European Union Special Representative. He emphasized that Bosnia and Herzegovina would have to take ownership and assume its full responsibilities as a normal European democratic State. He saw three priorities in 2006 for Bosnia and Herzegovina — constitutional reform, the general elections in October and the ongoing negotiations of the Stabilization and Association Agreement — as well as three outstanding issues from the post-war period — including full cooperation with the International Tribunal for the Former Yugoslavia, the status of officials removed from public positions by

³⁶ The representatives of the Congo, Ghana and Japan did not make statements.

³⁷ Other countries aligned themselves with this statement.

the High Representative and the issue of police officers decertified by the International Police Task Force.³⁸

The Chairman of the Council of Ministers of Bosnia and Herzegovina welcomed the new and what he was certain would be the last, High Representative. He said that during the past three and a half years Bosnia and Herzegovina had passed from a country focused on implementing a peace agreement to one that was negotiating with the European Commission with a view to signing the Stabilization and Accession Agreement. He said that he supported the High Representative in the directions and policy he had set forth for the fullest transfer of ownership to the institutions of Bosnia and Herzegovina. He also reported that pressure had been increasing from the general public in Bosnia and Herzegovina to address the problem of police officers not certified by the Task Force, some of whom had not seen any documentation or had not had the opportunity to appeal because the decision in those cases had been taken at the end of the mandate of the Task Force. The Permanent Representative of Bosnia and Herzegovina had therefore sent a letter to the President of the Security Council,³⁹ in which he requested consideration of possible options for securing rights of appeal and review of decertification decisions.⁴⁰

Most other speakers supported the intentions of the High Representative to transfer more responsibilities to the authorities of Bosnia and Herzegovina and to limit the use of his extraordinary executive powers. Most speakers also believed that the issue of decertified police officers needed to be addressed.

At its 5563rd meeting, on 8 November 2006, the Council included in its agenda a letter dated 12 October 2006 from the Secretary-General, transmitting the thirtieth report of the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina.⁴¹ In his report, the new High Representative stressed his intention to oversee a shift in the role played by the Office of the High Representative and the international community from providing leadership to offering advice and support to the domestic authorities as they assumed ownership of and full

³⁸ S/PV.5412, pp. 2-4.

³⁹ S/2006/64.

⁴⁰ S/PV.5412, pp. 4-6.

⁴¹ S/2006/810.

responsibility for the continuing progress of the country towards institutional stability and Euro-Atlantic integration. He nevertheless made it clear that he would not hesitate to use his extraordinary executive powers in the case of a serious threat to the peace and stability of the country. He also drew attention to the decision of the Peace and Implementation Council to authorize the Office of the High Representative to prepare for its closure and likely replacement in July 2007 by an office of the European Union Special Representative. In addition, he observed that the period had been marked by high expectations resulting from an unprecedented agreement to propose a package of constitutional amendments to the Presidency and the Parliamentary Assembly, followed by a period of “increasingly nationalistic vituperation” after a narrow defeat of the reform package in Parliament. This had set the tone for the upcoming election campaign, in which politicians in the Republika Srpska, referring to the independence referendum in Montenegro and the final status talks in Kosovo, had claimed the right to a referendum on the future of the Republika Srpska, whereas some Bosniak politicians had suggested that the Republika Sprska be abolished.

At the meeting, the Council heard briefings by the High Representative and the Chairman of the Council of Ministers of Bosnia and Herzegovina, following which statements were made by all members of the Council, and by the representative of Finland (on behalf of the European Union).⁴²

In his briefing, the High Representative said that developments since the decision of the Peace Implementation Council to close the Office of the High Representative at the end of June 2007 had demonstrated the challenge of moving to local ownership and would have to be considered by the Peace Implementation Council during its review of the decision. He considered that the international community must hold its course and continue handing over responsibility gradually. He reported that political reforms, including the police restructuring process and constitutional reform, which were a precondition for completing the stabilization and association process, had stalled, in part because of the campaigning and rhetoric preceding the elections of 1 October 2006. The

High Representative also held that, even if there was no linkage between the decision on the final status of Kosovo and the situation in Bosnia and Herzegovina, it had the potential to be destabilizing, if the decision were to be delayed. On the outstanding issue of legal challenges to the police certification process conducted by the Task Force, the High Representative reported that his Office had worked with the United Nations and the authorities of Bosnia and Herzegovina to establish the facts and develop the outlines of a review process, but said that he was, legally and politically, unable to resolve the issue, which would have to be taken up by the Security Council.⁴³

The Chairman of the Council of Ministers of Bosnia and Herzegovina, pointing to a policy of blockade of all political reform processes by the Government of the Republika Srpska that had coincided with the general elections in Bosnia and Herzegovina in October 2006, held that the timing for the closure of the Office of the High Representative had been a “fatal misstep”, and called for the transformation into an Office of a Special Representative of the European Union not to start until it would be certain that Bosnia and Herzegovina and its new Government were completely ready to sign the Stabilization and Association Agreement with the European Union and to fulfil the expected conditions.⁴⁴

Most other speakers agreed with the policy of the High Representative to gradually hand over responsibilities to the authorities of Bosnia and Herzegovina and expressed their support for the decision of the Peace Implementation Council to close the Office of the High Representative at the end of June 2007 and to replace it with the Office of the European Union Special Representative. Most speakers also expressed their appreciation for the fact that Bosnia and Herzegovina had held its first elections that were fully administered by the authorities of the country. Many speakers regretted that political reforms had stalled.

The representative of Ghana called for the establishment of an investigative commission to determine the fate of the missing civilians of Sarajevo.⁴⁵ The representatives of Slovakia, Qatar and the United Kingdom emphasized that there was no link

⁴² Bulgaria, Croatia, Norway, the Republic of Moldova, Romania, the former Yugoslav Republic of Macedonia, Turkey and Ukraine aligned themselves with this statement.

⁴³ S/PV.5563, pp. 2-5.

⁴⁴ *Ibid.*, pp. 6-8.

⁴⁵ *Ibid.*, p. 14.

between the situation in Bosnia and Herzegovina and the outcome of the Kosovo future status process.⁴⁶

At its 5567th meeting, on 21 November 2006, the Council extended an invitation to the representatives of Bosnia and Herzegovina, Finland, Germany and Italy to participate in the meeting. The President (Peru) drew the attention of the Council to the letter transmitting the above-mentioned thirtieth report of the High Representative,⁴⁷ as well as to a letter dated 12 October 2006 from the Secretary-General, transmitting the seventh report on the activities of EUFOR.⁴⁸ A draft resolution⁴⁹ was then put to the vote and adopted unanimously and without debate as resolution 1722 (2006), by which the Council, acting under Chapter VII of the Charter, *inter alia*:

Authorized Member States acting through or in cooperation with the European Union to establish for a further period of 12 months a multinational stabilization force as a legal successor to SFOR under unified command and control;

Authorized the Member States acting through or in cooperation with NATO to continue to maintain a NATO Headquarters as a legal successor to SFOR under unified command and control;

Authorized the Member States to take all necessary measures to effect the implementation of and to ensure compliance with annexes 1-A and 2 of the Peace Agreement and to assist both EUFOR and the NATO presence in carrying out their missions;

Authorized the Member States to take all necessary measures to ensure compliance with the rules and procedures governing command and control of airspace over Bosnia and Herzegovina with respect to all civilian and military air traffic;

Demanded that the parties respect the security and freedom of movement of EUFOR, the NATO presence, and other international personnel;

Requested the Member States to report to the Council on the activity of EUFOR and the NATO Headquarters presence respectively, through the appropriate channels and at least at three-monthly intervals;

Also requested the Secretary-General to continue to submit to the Council reports from the High Representative on the implementation of the Peace Agreement and in particular on compliance by the parties with their commitments under that Agreement.

⁴⁶ *Ibid.*, p. 11 (Slovakia); p. 17 (Qatar); and p. 19 (United Kingdom).

⁴⁷ S/2006/810.

⁴⁸ S/2006/809.

⁴⁹ S/2006/900.

**Decision of 29 June 2007 (5713th meeting):
resolution 1764 (2007)**

At its 5675th meeting, on 16 May 2007, the Council included in its agenda a letter dated 3 May 2007 from the Secretary-General addressed to the President of the Security Council, transmitting the thirty-first report on the activities of the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina.⁵⁰ In his report, the High Representative observed that highly divisive and occasionally inflammatory rhetoric during the election campaign and a protracted government-forming process after the elections in October 2006 had led to a virtual halt in reform. In addition, an uncertain regional situation, including the deferment of a Kosovo status decision and the independence referendum in Montenegro had had a negative impact on politics and political discourse in Bosnia and Herzegovina. Those factors had led the High Representative to recommend to the Peace Implementation Council to continue the Office of the High Representative beyond the envisaged closure date of 30 June 2007. The High Representative reported that the Peace Implementation Council had endorsed his view and agreed to aim for closure of the Office by 30 June 2008 and to review the situation in October 2007 and February 2008. At the same time, the High Representative reported that Bosnia and Herzegovina had joined the NATO Partnership for Peace programme and that technical negotiations with the European Union on the Stabilization and Association Agreement had been completed, while the political conditions for signing the agreement, including an agreement on police restructuring, remained unmet. He reported that constitutional reform remained a high-profile issue, although it appeared unlikely that the original reform package of April 2006 would receive the necessary support to be reintroduced in parliament. In that regard, he announced that he was preparing a broad constitutional reform process. In addition, he reported that the Council of Ministers of Bosnia and Herzegovina had adopted a unilateral decision to establish a domestic review process for officers who had been denied certification by the International Police Task Force, in response to a hunger strike by former police officers. He had called upon the Council of Ministers to respect fully its obligations under international law and had pointed out that, were its

⁵⁰ S/2007/253.

decision to be implemented, he would have no choice but to consider further measures.

At the outset of the meeting, the President (United States) drew the attention of the Council to a letter dated 8 May 2007 from the Secretary-General, transmitting the ninth report on the activities of the European Union military mission in Bosnia and Herzegovina.⁵¹ The Council then heard briefings by the High Representative and the Chairman of the Council of Ministers of Bosnia and Herzegovina, following which statements were made by all members of the Council, as well as by the representative of Germany (on behalf of the European Union).⁵²

In his briefing, the High Representative said that, despite the difficulties of the election campaign, the government-forming process and the blockage of political reforms, the path to more ownership by the people of Bosnia and Herzegovina was not wrong, but that the problems had been a warning that transition could not be taken for granted. The High Representative reported that radical rhetoric had poisoned the political environment, and the issue of Srebrenica had returned to the headlines. He said that the Bosnian authorities must carry out their responsibilities and ensure that concrete measures were taken to improve conditions, but that did not mean changing the constitutional and territorial order of Bosnia and Herzegovina. The High Representative called for progress on police reform, constitutional reform and transfer of the remaining indictees to the International Tribunal for the Former Yugoslavia, in order for the “road to Europe” to be unblocked.⁵³

Most speakers at the meeting supported the decision to maintain the Office of the High Representative until June 2008, with the representative of the United States expressing disappointment that the situation in Bosnia and Herzegovina had not been conducive to allowing the Peace Implementation Council to decide to close the Office of the High Representative.⁵⁴

The representative of the Russian Federation supported an early transfer of responsibility to the authorities of Bosnia and Herzegovina, “including with respect to the forthcoming transition of the Office of the High Representative to a European Union mission”. He also expressed the hope that in the framework of the forthcoming review, of October 2007, the members of the Steering Board of the Peace Implementation Council would “take account of the realities, not of some imagined threat to stability in Bosnia and Herzegovina”.⁵⁵

At its 5713th meeting, on 29 June 2007, the Council extended invitations to the representatives of Bosnia and Herzegovina and Germany to participate in the meeting. Statements were made by the representatives of the United Kingdom and the Russian Federation. A draft resolution submitted by the Russian Federation⁵⁶ was put to the vote and adopted unanimously as resolution 1764 (2007), by which the Council, inter alia, took note of the decision of the Steering Board of the Peace Implementation Council of 19 June 2007 that the Office of the High Representative would remain in place and continue to carry out its mandate and that the aim was closure of the Office of the High Representative by 30 June 2008.

Speaking after the vote, the representative of the United Kingdom, referring to the paragraph of the resolution by which the Council welcomed and agreed to the designation by the Steering Board of the Peace Implementation Council of Mr. Miroslav Lajčák as High Representative in succession to Mr. Christian Schwarz-Schilling, noted that it was the Steering Board that appointed the High Representative and that decided on the mandate of his office. While she held that formal agreement of the Security Council was not necessary, her delegation welcomed the support of the Council for those decisions. She also expressed her understanding that nothing in resolution 1764 (2007) or those it recalled impacted on other Balkan issues under consideration by the Council.⁵⁷ The representative of the Russian Federation held that the decision was in keeping with the Dayton Agreement, previous Council resolutions on Bosnia and Herzegovina and previous agreements.⁵⁸

⁵¹ S/2007/268.

⁵² Albania, Croatia, Iceland, Montenegro, the Republic of Moldova, Serbia, the former Yugoslav Republic of Macedonia, Turkey and Ukraine aligned themselves with the statement.

⁵³ S/PV.5675, pp. 2-6.

⁵⁴ *Ibid.*, pp. 19-20.

⁵⁵ *Ibid.*, p. 11.

⁵⁶ S/2007/394.

⁵⁷ S/PV.5713, pp. 2-3.

⁵⁸ *Ibid.*, p. 3.

**Decision of 21 November 2007
(5782nd meeting): resolution 1785 (2007)**

At its 5782nd meeting, on 21 November 2007,⁵⁹ the Council included in its agenda a letter dated 5 November 2007 from the Secretary-General addressed to the President of the Council, transmitting the thirty-second report of the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina.⁶⁰ In his report, the High Representative observed that there had been almost no progress in addressing the reform agenda and that Bosnia and Herzegovina had moved no closer to initialling a Stabilization and Association Agreement with the European Union. He also noted a deterioration of the political situation. The High Representative also drew the attention of the Council to a Declaration of the Steering Board of the Peace Implementation Council, in which the Steering Board noted that certain political leaders had challenged the legitimacy and authority of the High Representative and the Peace Implementation Council and reiterated that any Bosnia and Herzegovina political leader or institution to do so would be subject to appropriate measures. On the issue of legal challenges to the police certification process conducted by the International Police Task Force, he reported that a solution had been found when the President of the Security Council had sent a letter to the representative of Bosnia and Herzegovina on 30 April 2007, informing him that the Security Council had lifted a lifetime ban on employment in police agencies by persons who had been denied certification by the Task Force, following which Bosnia and Herzegovina had annulled its earlier decision to establish a review commission for those cases, which had been contrary to provisions of Council resolutions.

The Council invited the representative of Bosnia and Herzegovina to participate in the meeting. At the outset, the President (Indonesia) drew the attention of the Council to a letter dated 25 October 2007 from the

⁵⁹ At its 5780th meeting, held in private on 15 November 2007, the Security Council heard a briefing by the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina and a statement by the Acting Chairman of the Council of Ministers of Bosnia and Herzegovina. Members of the Council, the High Representative, the Acting Chairman and the representatives of Portugal and Serbia had an exchange of views.

⁶⁰ S/2007/651.

Secretary-General, transmitting the eleventh report on the activities of the European Union military operation in Bosnia and Herzegovina.⁶¹ A draft resolution⁶² was then put to the vote and adopted unanimously and without debate as resolution 1785 (2007), by which the Council, acting under Chapter VII of the Charter, *inter alia*:

Authorized the Member States acting through or in cooperation with the European Union to establish for a further period of 12 months a multinational stabilization force as a legal successor to SFOR under unified command and control, which would fulfil its missions in relation to the implementation of annexes 1-A and 2 of the Peace Agreement in cooperation with the NATO Headquarters presence in accordance with the arrangements agreed between NATO and the European Union as communicated to the Security Council in their letters of 19 November 2004, which recognized that EUFOR would have the main peace stabilization role under the military aspects of the Peace Agreement;

Authorized the Member States to take all necessary measures to effect the implementation of and to ensure compliance with annexes 1-A and 2 of the Peace Agreement; authorized Member States to take all necessary measures, at the request of either EUFOR or the NATO Headquarters, in defence of EUFOR or the NATO presence respectively, and to assist both organizations in carrying out their missions, and recognized the right of both EUFOR and the NATO presence to take all necessary measures to defend themselves from attack or threat of attack;

Authorized the Member States to take all necessary measures to ensure compliance with the rules and procedures governing command and control of airspace over Bosnia and Herzegovina with respect to all civilian and military air traffic.

**B. Security Council resolutions 1160
(1998), 1199 (1998), 1203 (1998), 1239
(1999) and 1244 (1999)**

**Deliberations of 6 February 2004
(4910th meeting)**

At its 4910th meeting, on 6 February 2004, at which all members of the Security Council and the representatives of Albania, Ireland (on behalf of the European Union)⁶³ and Serbia and Montenegro made statements, the Council heard a briefing by the Special

⁶¹ S/2007/632.

⁶² S/2007/673.

⁶³ Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Iceland, Latvia, Liechtenstein, Lithuania, Malta, Norway, Poland, Romania, Slovakia, Slovenia and Turkey aligned themselves with the statement.