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**STATEMENT BY THOMAS HAMMARBERG**

**COUNCIL OF EUROPE COMMISSIONER FOR HUMAN RIGHTS**

**Sarajevo, 22 December 2006**

1. I have visited Bosnia and Herzegovina (BiH) for two days in order to assess complaints about the consequences of the UN process of vetting police officers by the International Police Task Force (IPTF) conducted until the end of 2002.
2. During the visit, I had meetings and talks with Mr. Zeljko Komsic and Mr Haris Silajdzic, Members of the BiH Presidency; Mr. Adnan Terzic, Chairman of the BiH Council of Ministers; Mr. Mirsad Kebo, BiH Minister of Human Rights and Refugees, Mr. Mladen Ivanic, BiH Foreign Minister; BiH Constitutional Court; representatives of the two associations representing the decertified police officers, as well as with several representatives of the international community in Sarajevo.
3. Two aspects have been particularly important during my meetings: 1) the protection of rights for individuals, 2) the importance of securing respect for international law, including the authority of the decisions by the UN Security Council.
4. My conclusions coincide largely with the report of the European Commission for Democracy through Law (Venice Commission) of October 2005.
5. The vetting process as such was a consequence of the Dayton Agreement (General Framework Agreement for Peace in Bosnia and Herzegovina – GFAP) which established IPTF. The behaviour of some police officers during the worst period of the conflict in the early nineties had been of major concern and it was essential that criminals and other unsuitable persons would not be a part of the future police forces.
6. The IPTF set out certain positive and negative criteria for the certification of the police officers. When now analysing these criteria, I found them highly relevant and have heard no objection to them.
7. The objections are instead about the process of applying the criteria to the individual cases. I have been presented with information and testimonies which indicate serious shortcomings in relation both to the adopted procedures themselves and to how these were implemented.
8. The main problem relates to the limited possibility for the individual to challenge the decision by the IPTF Commissioner. No independent review was offered. This is how the Venice Commission described the complaints procedure:

*“The procedure was as follows: within eight days of the Commissioner’s decision on non-certification or decertification, an appeal could be lodged before a panel composed of UNMBiH staff members. The application was to be made on the basis of the reasons for the refusal, but without access to the file and the evidence. Neither the applicant nor a representative were allowed to appear before the panel. The panel would make its recommendation to the Commissioner who would then make the final and binding decision.”*

9. In my assessment, these procedures do not fulfil the requirements of the European Convention of Human Rights.
10. This is more serious, as the refusal or removal of certification disbarred the individual from the police profession for life. I have, during my visit, also been informed about social consequences for the decertified police officers, and about the stigma which IPTF decision can cause. A great number of them have remained unemployed.
11. It is the opinion of several of those I have met that some of the police officers who were certified had a criminal background and should be seen as unsuitable for police work. I have not been able to assess this and other examples of alleged obvious mistakes in the process. I have, however, the firm impression that there is a widespread opinion in BiH that a number of the decisions were arbitrary and that the process was therefore flawed. I do not think that the United Nations can ignore this problem.
12. Plans for the closure of the Office of the High Representative with its “Bonn Powers” are now being discussed. It is highly important that the issue of the decertified police officers be clarified before this closure.
13. UN Security Council decisions have to be respected. Domestic courts or other mechanisms in BiH may not, without UN authorisation, take it on themselves to review the IPTF decisions. The solution must come through an additional position or interpretation by the Security Council which would take into account information about problems which have arisen since 31 December 2002.
14. Such an approach would confirm the Security Council position that it is of utmost importance that the United Nations itself act in full compliance with international human rights standards.
15. It is my conviction that it is possible to find a satisfactory solution which would address the legitimate concerns of decertified police officers without undermining the authority of the United Nations or the IPTF vetting process.
16. I shall be sharing my conclusions of this mission with members of the Security Council in New York and am ready to travel there to meet them in order to explain my optimism for a solution.