

<i>Meeting and date</i>	<i>Sub-item</i>	<i>Other documents</i>	<i>Invitations</i>	<i>Speakers</i>	<i>Decision and vote (for-against-abstaining)</i>
6115th 30 April 2009					S/PRST/2009/10
6132nd 29 May 2009	Report of the Secretary-General on UNFICYP (S/2009/248)	Draft resolution submitted by China, France, Russian Federation, United Kingdom, United States (S/2009/276)		1 Council member (Turkey)	Resolution 1873 (2009) 14-1(Turkey)-0
6239th 14 December 2009	Report of the Secretary-General on UNFICYP (S/2009/609); Report of the Secretary-General on his mission of good offices in Cyprus (S/2009/610)	Draft resolution submitted by China, France, Russian Federation, United Kingdom, United States (S/2009/641)		1 Council member (Turkey)	Resolution 1898 (2009) 14-1(Turkey)-0

25. Items relating to the situation in the former Yugoslavia

A. The situation in Bosnia and Herzegovina

Overview

During the period 2008-2009, the Security Council held seven meetings concerning the situation in Bosnia and Herzegovina and adopted three resolutions. At the meetings, the Council heard regular briefings from the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina concerning the evolving political situation in the country, the reaction to the situation in Kosovo, cooperation with the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 and the multinational stabilization force (European Union Force (EUFOR)), and the continued North Atlantic Treaty Organization (NATO) presence in the country, which the Council had mandated to ensure continued compliance with the General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Agreement)³⁸⁷ that ended fighting in that country in 1995.

During the period, the Council twice extended for periods of 12 months the authorization for EUFOR and the NATO presence, under Chapter VII of the Charter, including authorization for the participating Member States to take all necessary measures to assist both organizations in carrying out their missions.³⁸⁸

19 May and 5 December 2008: briefings by the High Representative

On 19 May 2008, the Council heard a briefing by the High Representative. He informed the Council that Bosnia and Herzegovina had taken a significant step towards the stabilization of the political situation. Following the adoption of new legislation on police reform, Bosnia and Herzegovina was on the verge of signing a stabilization and association agreement with the European Union and was moving towards NATO membership. The Steering Board of the Peace Implementation Council³⁸⁹ had also reached consensus

³⁸⁷ S/1995/999.

³⁸⁸ Resolutions 1845 (2008) and 1895 (2009). For more information, see part VIII, in regard to the mandate of EUFOR.

³⁸⁹ The Peace Implementation Council was established in 1995. The members of the Steering Board are Canada,

on a set of conditions for transition from the Office of the High Representative to an Office of the European Union Special Representative in Bosnia and Herzegovina. Although the public reaction to the declaration by Kosovo of its independence had been relatively muted,³⁹⁰ the leadership of Republika Srpska had officially linked the future status of that entity with the status of Kosovo. Specifically, the National Assembly of Republika Srpska had passed a resolution stating that if a majority of European Union members recognized the independence of Kosovo, then the Republika Srpska would have the right to a referendum to determine its own future legal status. The High Representative explained that he had publicly rejected this claim, emphasizing that the entities of Bosnia and Herzegovina had no right to secede under the Dayton Agreement, a point which had also been echoed by the Steering Board of the Peace Implementation Council.³⁹¹

The representative of Bosnia and Herzegovina noted many positive developments that had taken place since November 2007, including progress on European integration and membership in NATO. He also noted that there were several outstanding obligations, such as adopting a State property law, a justice sector reform strategy and a war crimes strategy. On constitutional reform, he warned those who would seek to challenge the Dayton Agreement that such an approach could jeopardize the results already achieved. While updating the Agreement was possible and desirable, it had to be the result of internal consensus and compromise and not imposed from abroad.³⁹²

All Council members welcomed the progress that had taken place in Bosnia and Herzegovina, especially the adoption of the two police reform laws and the forthcoming signing of a stabilization and association agreement. Several delegations said that all parties must respect the sovereignty and territorial integrity of Bosnia and Herzegovina in accordance with the Dayton Agreement. In that regard, Council members opposed the call for secession by one entity and urged

intensified dialogue and negotiation to achieve a stable and democratic multi-ethnic State.

Regarding cooperation with the International Tribunal for the former Yugoslavia, several speakers stressed that there should be no impunity for perpetrators of crimes, and urged Bosnia and Herzegovina and Serbia to cooperate fully and transfer such criminals to the jurisdiction of the Tribunal. The representative of Serbia disagreed with the comments in the High Representative's report on the potential presence of fugitives in Serbia and his country's alleged lack of cooperation and implementation of judicial rulings.³⁹³

The representative of China noted that the unilateral declaration of independence by Kosovo had had a negative impact on the situation.³⁹⁴ The representatives of France and the United Kingdom, however, believed that Kosovo's declaration of independence had closed a painful chapter in the history of the Balkans and that the region could now look forward to a future within Europe.³⁹⁵

On 5 December 2008, the Council heard another briefing by the High Representative. He noted that the signing of the Stabilization and Association Agreement on 16 June was an important milestone in Bosnia and Herzegovina's journey towards the European Union. However, on the political front, negative and nationalistic rhetoric continued to be the norm. There had continued to be numerous challenges to the Dayton Agreement, both against the State and its structures and against the existence of Republika Srpska as one of the two entities of Bosnia and Herzegovina. He informed the Security Council that the Peace Implementation Council had taken the view that there had been progress in implementing the conditions for transition from the Office of the High Representative to an Office of the European Union Special Representative, but much remained to be done by the authorities in Bosnia and Herzegovina to complete the work. Finally, he noted that EUFOR would be transformed into a smaller, non-executive military mission as soon as conditions allowed.³⁹⁶

The representative of Bosnia and Herzegovina pointed out that the country would continue to need not

France, Germany, Italy, Japan, the Russian Federation, the United Kingdom, the United States, the Presidency of the European Union, the European Commission and the Organization of the Islamic Conference (see S/1995/1029, annex).

³⁹⁰ For more information see the present part, sect. 25.B.

³⁹¹ S/PV.5894, pp. 2-6.

³⁹² *Ibid.*, pp. 6-7.

³⁹³ *Ibid.* p. 21.

³⁹⁴ *Ibid.*, p. 8.

³⁹⁵ *Ibid.*, p. 17 (France) and p. 19 (United Kingdom).

³⁹⁶ S/PV.6033, pp. 2-6.

just attention but also assistance from the international community. However, that assistance needed to be provided in the form of services and advice, not in the form of international representatives having decision-making power in the country's institutions, with diplomatic immunity and without accountability for bad decisions. He also stressed the importance of both Republika Srpska and the Federation of Bosnia and Herzegovina being equally respected as constituent parts of Bosnia and Herzegovina.³⁹⁷

Members of the Council largely praised the progress in Bosnia and Herzegovina, including in regard to the implementation of the conditions for the transition to an Office of the European Union Special Representative, and in particular the signing of the Stabilization and Association Agreement. Members regretted, however, what some called a loss of momentum since the signing of that Agreement. Serious concerns were expressed over the political atmosphere in the country, in particular the divisive nationalist rhetoric which threatened to undermine the Dayton Agreement and the territorial integrity of the country.

The representative of the Russian Federation stated that any reform of the structures set up by the Dayton Agreement could be only on the basis of consensus of the sides, and that imposing some kind of formula or prescription, especially using the so-called Bonn powers,³⁹⁸ was unacceptable and doomed to failure.³⁹⁹ The representative of the United Kingdom expressed his belief that the Bonn powers should be used sparingly and only when necessary, underlining that it was the case that they existed and had been endorsed by the Council in a Chapter VII resolution. He supported the High Representative in his judgement as to whether or not to use them on each particular occasion.⁴⁰⁰

25 March 2009: appointment of a new High Representative

On 25 March 2009, the Council, by resolution [1869 \(2009\)](#), inter alia, welcomed and agreed to the designation by the Steering Board of the Peace Implementation Council on 13 March 2009 of Valentin Inzko as High Representative in succession to Miroslav Lajčák. The Council took note of the declarations of the Steering Board of 27 February and 20 November 2008 regarding fulfilment of the five objectives and two conditions required for a transition from the Office of the High Representative to an Office of the European Union Special Representative in Bosnia and Herzegovina.

28 May and 23 November 2009: briefings by the High Representative

On 28 May and 23 November 2009, the Council heard briefings from the High Representative in connection with the implementation of the Dayton Agreement. He noted that the period since the beginning of 2009 had been characterized by persistent political problems and a lack of progress on key agendas and on the progress required for Euro-Atlantic integration and the closure of the Office of the High Representative. The Republika Srpska leadership had failed to grasp that State and entity authorities had separate and clearly defined mandates. At the same time, a number of political leaders in the Federation of Bosnia and Herzegovina had advocated a much stronger role at the State level and a reduced role for the entities, which also did not contribute to improved dialogue. In relation to progress towards meeting the conditions for closing the Office of the High Representative, he noted that the two objectives related to the apportionment of State property and termination of the Brcko District supervisory regime had not yet been entirely fulfilled, so the Peace Implementation Council had not been able to authorize the closure of his Office. The lack of progress in that area had also forced him to use his executive powers on a number of occasions. Nonetheless, he said that over the past several years use of the Bonn powers had been scaled back. Finally, welcoming the extension of the mandate of EUFOR by resolution [1895 \(2008\)](#), he maintained that the Peace Implementation Council would need to decide in what note and with what mandate the international community would stay in Bosnia and Herzegovina after the closure of the Office of the High

³⁹⁷ Ibid., pp. 6-8.

³⁹⁸ At the conclusion of the Peace Implementation Conference held in Bonn on 9 and 10 December 1997, the Peace Implementation Council granted the High Representative the powers to adopt binding decisions to ensure implementation of the Dayton Agreement, inter alia, when public officials were absent from meetings without cause or were, in the view of the High Representative, in violation of legal commitments under the Agreement (see S/1997/979, annex).

³⁹⁹ S/PV.6033, p. 11.

⁴⁰⁰ Ibid., p. 13.

Representative, as the challenges deriving from the Dayton Agreement would remain.⁴⁰¹

In response to the briefings, the representative of Bosnia and Herzegovina noted that the Council of Ministers had been doing its best to ensure the progress of Bosnia and Herzegovina on its Euro-Atlantic road in an environment that, more often than not, had not been one of compromise, dialogue and consensus. He noted, however, some recent successes, particularly regarding the visa liberalization requirements set out in the road map of the European Commission, and the fight against organized crime. He stated that success with visa liberalization had been overshadowed by other less successful processes or attempts at reform. He stressed that linking visa liberalization to any other issue was counterproductive, and expressed the hope that the European Commission would soon give a positive recommendation in that area. He criticized the report of the High Representative for being overly negative and pointed out that Bosnia and Herzegovina had just been elected to a seat on the Security Council. Although he acknowledged the importance of constitutional reform, he stressed that it needed to be based on internal dialogue and compromise and not imposed from outside.⁴⁰²

Most speakers expressed regret that there had been little progress towards meeting the conditions for closing the Office of the High Representative, in particular the reform of the Constitution to bring it in line with the European Convention for the Protection of Human Rights and Fundamental Freedoms and reforms to improve the efficiency of institutions. They

also expressed concern with the increasing nationalist and anti-Dayton rhetoric, especially by the authorities of Republika Srpska, as well as the lack of support for the Office of the High Representative and attacks against State institutions. Many also insisted on the need for more progress on reforms of the rule of law and war crime prosecutions. Several speakers, however, recognized the progress that had been made by Bosnia and Herzegovina, including the recent passing of legislation on visa liberalization.

The representative of the Russian Federation, stressing the lack of objectivity and balance in the reports prepared by the High Representative, noted that assertions of allegedly growing friction among Bosnian parties and of increasing potential for conflict were at odds with the long-standing positive conclusions set out in the reports to the Council of the European Union forces. Additionally, he observed that the Office of the High Representative had itself become an institution for destabilization, and its unjustified and hasty use of Bonn powers was leading to increased tension in Bosnia and Herzegovina. In that respect, he recalled that the Russian Federation had long called for an end to that obsolete mechanism. Pointing out that a European perspective for Bosnia and Herzegovina was of key significance, he stated that the attempt to link the question of European Union candidate status for Bosnia to the constitutional reform proposal set out in the Butmir initiative would only lead the Bosnia settlement process into an impasse. Constitutional change could only be the result of an internal consensus reached independently of outside pressure.⁴⁰³

⁴⁰¹ S/PV.6130, pp. 2-5, and S/PV.6222, pp. 2-5.

⁴⁰² S/PV.6130, pp. 5-7, and S/PV.6222, pp. 5-9.

⁴⁰³ S/PV.6130, pp. 19-20, and S/PV.6222, pp. 13-14.

Meetings: the situation in Bosnia and Herzegovina

<i>Meeting and date</i>	<i>Sub-item</i>	<i>Other documents</i>	<i>Invitations</i>	<i>Speakers</i>	<i>Decision and vote (for-against-abstaining)</i>
5894th 19 May 2008	Letter dated 6 May 2008 from the Secretary-General addressed to the President of the Security Council (S/2008/300)		Rule 37 Bosnia and Herzegovina (Chairman of the Council of Ministers of Bosnia and Herzegovina), Serbia, Slovenia (on behalf of the European Union) Rule 39 High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina	All Council members and all invitees	
6021st 20 November 2008	Letter dated 13 November 2008 from the Secretary-General addressed to the President of the Security Council (S/2008/705)	Draft resolution submitted by 8 States ^a (S/2008/720)	Rule 37 Bosnia and Herzegovina, Germany		Resolution 1845 (2008) (15-0-0)
6033rd 5 December 2008	Letter dated 13 November 2008 from the Secretary-General addressed to the President of the Security Council (S/2008/705)	Report on the activities of the European Union Police Mission in Bosnia and Herzegovina (S/2008/732 , annex)	Rule 37 Bosnia and Herzegovina (Chairman of the Council of Ministers) Rule 39 High Representative for Bosnia and Herzegovina	All Council members ^b and all invitees	
6099th 25 March 2009		Draft resolution submitted by 9 States ^c (S/2009/154)	Rule 37 Bosnia and Herzegovina, Germany, Italy		Resolution 1869 (2009) (15-0-0)

**Part I. Consideration of questions under the responsibility of
the Security Council for the maintenance of
international peace and security**

<i>Meeting and date</i>	<i>Sub-item</i>	<i>Other documents</i>	<i>Invitations</i>	<i>Speakers</i>	<i>Decision and vote (for-against-abstaining)</i>
6130th 28 May 2009	Letter dated 13 May 2009 from the Secretary- General addressed to the President of the Security Council (S/2009/246)		Rule 37 Bosnia and Herzegovina (Chairman of the Council of Ministers), Czech Republic (on behalf of the European Union), Serbia Rule 39 High Representative for Bosnia and Herzegovina	All Council members and all invitees	
6220th 18 November 2009	Letter dated 12 November 2009 from the Secretary- General addressed to the President of the Security Council (S/2009/588); Letter dated 8 October 2009 from the Secretary- General addressed to the President of the Security Council (S/2009/525)	Draft resolution submitted by 9 States ^d (S/2009/591)	Rule 37 Bosnia and Herzegovina, Germany, Italy		Resolution 1895 (2009) (15-0-0)
6222nd 23 November 2009	Letter dated 12 November 2009 from the Secretary- General addressed to the President of the Security Council (S/2009/588)		Rule 37 Bosnia and Herzegovina (Chairman of the Council of Ministers), Serbia, Sweden (on behalf of the European Union)	All Council members and all invitees	

<i>Meeting and date</i>	<i>Sub-item</i>	<i>Other documents</i>	<i>Invitations</i>	<i>Speakers</i>	<i>Decision and vote (for-against-abstaining)</i>
				Rule 39 High Representative for Bosnia and Herzegovina	

^a Belgium, Croatia, France, Germany, Italy, Russian Federation, United Kingdom and United States.

^b The representative of France made a statement on behalf of the European Union.

^c Austria, Croatia, France, Germany, Italy, Russian Federation, Turkey, United Kingdom and United States.

^d Austria, Croatia, France, Germany, Italy, Russian Federation, Turkey, United Kingdom and United States.

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

Overview

During the period 2008-2009 the Security Council held 12 meetings, including 3 closed meetings,⁴⁰⁴ and issued one presidential statement on the item entitled “Security Council resolutions 1160 (1998), 1199 (1998), 1203 (1998), 1239 (1999) and 1244 (1999)”. At the meetings the Council discussed the situation in Kosovo,⁴⁰⁵ the unilateral declaration of independence by the Kosovo Assembly, and the work of the United Nations Interim Administration Mission in Kosovo (UNMIK)⁴⁰⁶ and Kosovo Force (KFOR), among other topics.

16 January to 11 March 2008: unilateral declaration of independence by Kosovo

On 16 January 2008, the Council heard a statement by the President of Serbia who presented the position of his country on the need to resolve the future status of Kosovo and Metohija through compromise. He pointed out that over the past two years Serbia had taken part in the negotiations on the future status of its southern province in a constructive way and had put together a number of proposals that favoured the greatest possible autonomy, which it had measured

against the manner in which China had resolved the question of Hong Kong and Macau and Finland had resolved the status of the Åland Islands. Unfortunately, the negotiations conducted under the auspices of the international mediating troika⁴⁰⁷ had failed to yield results. He noted that the “only argument” that the other side had put forward was that “Slobodan Milosević and his regime were the party guilty for the situation in Kosovo” and that it had alleged that because of the mistakes of the former regime, Kosovo deserved independence. He stated that Serbia and its people had also experienced hardship due to the mistakes of the past regime, but that no one had the right to destabilize Serbia through unilateral decisions, which could also have consequences for other regions with problems related to ethnic separatism. He therefore believed that additional efforts were needed in order to arrive at a mutually acceptable solution for substantial self-government that would guarantee all rights to the Kosovo Albanians. He maintained that to deprive a legitimate democracy of an integral part of its territory against its will would constitute a violation of the Charter of the United Nations, and he called on the Council to prevent adoption of a unilateral measure on the independence of Kosovo. In conclusion, he stressed that Serbia would never recognize the independence of Kosovo and would preserve its territorial integrity and sovereignty through all democratic means, legal arguments and diplomacy, but would not resort to violence or war.⁴⁰⁸

⁴⁰⁴ 5822nd meeting, held on 16 January 2008; 5835th meeting, held on 14 February 2008; and 5871st meeting, held on 21 April 2008.

⁴⁰⁵ References to Kosovo shall be understood to be in the context of Security Council resolution 1244 (1999).

⁴⁰⁶ For more information, see part X, sect. I, in regard to the mandate of UNMIK.

⁴⁰⁷ The troika consisted of representatives from the Russian Federation, the United States and the European Union.

⁴⁰⁸ S/PV.5821, pp. 2-4.