

## I

*(Information)*

## COURT OF AUDITORS

### SPECIAL REPORT No 5/98

on reconstruction in former Yugoslavia (period 1996-1997) with the Commission's replies

*(submitted pursuant to the second subparagraph of paragraph 4 of Article 188c of the EC Treaty)*

(98/C 241/01)

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# Bosnia and Herzegovina



Scale: 1:2,270,000  
 Lambert Conformal Conic Projection,  
 standard parallels 40° N and 56° N

0 40 Kilometers  
 0 40 Miles

## PREFACE: CONDITIONS IN FORMER YUGOSLAVIA

1. Reconstruction in former Yugoslavia concerns two countries in particular: Bosnia-Herzegovina and, to a lesser extent, Croatia.

**Bosnia-Herzegovina***The institutions created by Dayton in Bosnia-Herzegovina*

2. The peace agreement divided Bosnia into two entities, each with a large measure of independence, namely, the Federation of Bosnia-Herzegovina, with a population of Muslims and Croats, and Republika Srpska, where the population is made up of Serbs. Ten cantons were established within the Federation, forming an intermediate level of government between the entity and the municipality.

3. As Bosnia was not an independent State before the war new institutions had to be established at all levels of the State, the entities and the cantons. The fragility of the institutions that were emerging in Bosnia-Herzegovina, the tensions between representatives of the ethnic communities within the State and Federation authorities and the dispersal of responsibility among the State, entity, cantonal and municipal governments made it particularly difficult for providers of funds (including the European Commission) to find responsible partners for operations in the country during the period 1996-97.

*Economic situation*

4. The cost of immediate war damage in Bosnia was estimated at between 15 150 and 30 300 Mio ECU<sup>(1)</sup>. The country's infrastructure was in poor condition before the war and has deteriorated further since then, owing to lack of maintenance. Industrial production in 1995 was not more than 10 % of the pre-war level, and the economy was in need of radical reform. At the end of 1995 80 % of the population was dependent on humanitarian aid.

5. At the end of 1997 the situation in Bosnia was still giving cause for concern. GDP, which in 1996 rose by 50 %, reaching 554 ECU/head of population, increased by a further 35 % in 1997, but was still extremely low<sup>(2)</sup>. Industrial production was still only 20 % of the pre-war level<sup>(3)</sup>. As of the same date some 20 % of the population continued to rely on food aid and health care remained dependent on international aid<sup>(4)</sup>.

*Situation of refugees and displaced persons*

6. Out of a pre-war population of four million inhabitants 250 000 people were killed and one million displaced within the country, whilst a further 1,3 million fled to other countries. Generally speaking, the refugees originated in towns in Bosnia-Herzegovina, whereas the displaced persons were people who left their villages during the war in search of relative safety in the towns, in many cases occupying houses that had been abandoned when the inhabitants fled abroad. In order to enable the refugees to return, it was first necessary to help the displaced persons reoccupy their own homes in war-torn areas.

<sup>(1)</sup> Source: World Bank: Priority reconstruction programme, November 1996, Volume 3.

<sup>(2)</sup> See Table A at the end of this preface.

<sup>(3)</sup> Source: Economist Intelligence Unit Country Report, first quarter 1998.

<sup>(4)</sup> Source: European Community Humanitarian Office.

7. At the end of 1997 800 000 people were still displaced within Bosnia-Herzegovina, whilst only 200 000 refugees had returned; 612 000 refugees were still abroad, 263 000 of them in EU Member States, including 220 000 in Germany, without any lasting solution having been found <sup>(5)</sup> <sup>(6)</sup>.

#### Croatia

8. The reconstruction programme in Croatia centred on eastern Slavonia, the region which suffered the most war-damage and was under UNTAES <sup>(7)</sup> control during the period 1996-1997. The cost of immediate war damage in the area was estimated to be around 1 000 Mio ECU. The reintegration of this region into the Republic of Croatia requires that the Croats be allowed to return in peace, but the rights of the Serb population must also be protected. This has been a serious constraint on the reconstruction process (see *Table A*).

#### *The context of Community action*

9. The Court of Auditors wishes to point out the nature of the conditions under which the reconstruction operations were undertaken, as their subsequent implementation was seriously affected by local conditions. The salient features were:

- a) the need for urgent action, arising from the political situation and the need for reconstruction work to start at the beginning of 1996;
- b) the politically unstable situation within the country, with some parties obstructing implementation of the peace settlement;
- c) the difficulty of obtaining the agreement of government authorities in the different entities (required under Community rules) led to delays in carrying out the various measures;
- d) complex, and relatively inflexible, legal and financial instruments that required the simultaneous application of two regulations and several budget items. The Council adopted the reconstruction Regulation (1628/96), after consultation of the European Parliament, at the end of July 1996. The tendering procedures and thresholds that had been used for the TACIS programme were transposed in this Regulation, but were unsuitable for the unusual circumstances prevailing in former Yugoslavia. In response to various criticisms concerning aid to former Yugoslavia the Council adopted Regulation (EC) No 851/98 <sup>(8)</sup> on 20 April 1998, after consulting the European Parliament. In the main, this Regulation follows the Commission's proposals for making procedures more flexible and speeding up implementation.

<sup>(5)</sup> Source: UNHCR 'Repatriation and Return Programme 1998'.

<sup>(6)</sup> Some 700 000 refugees have found durable solutions outside Bosnia-Herzegovina.

<sup>(7)</sup> UNTAES = United Nations Temporary Administration in Eastern Slavonia.

<sup>(8)</sup> OJ L 122, 24.4.1998, p. 1.

TABLE A  
Economic data regarding the republics of former Yugoslavia

	Slovenia <sup>(1)</sup> (1996)	Croatia (1995)	Bosnia-Herzegovina		Serbia-Montenegro (1995)	Ex-Rep. of Macedonia (1995)
			Federation (1996)	Republika Srpska (1996)		
Area (km <sup>2</sup> )	20 300	56 538	26 537	25 053	87 968	25 713
No. inhabitants (mio)	2,0	4,5	2,4	1,4	10,8	2,1
% of cultivated land	12	26	28	?	35	22
GNP (10 <sup>9</sup> USD)	16,3	14,6	2,3	0,5	9,9	1,8
GNP/inhabitant (USD)	8 152	3 250	864	392,0	920	860
Gross external debt (10 <sup>9</sup> USD)	2,85	2,86	( <sup>2</sup> )	( <sup>2</sup> )	?	?
Distribution of GNP by sector (in %)						
Agriculture	4,4	14,0	13,5	17,8	15,0	16,0
Extractive industries	1,1	3,0	} 20,7	} 32	5,0	5,0
Industry	34,4	48,0			45,0	50,0
Services	60,1	35,0	65,8	50,2	35,0	29,0
Unemployment rate (%)	7,3	17,0	33,0	39,0	?	?
Inflation rate (%)	9,7	2,1	10,8	?	?	16,0

(<sup>1</sup>) By virtue of its special situation Slovenia participates fully in the PHARE programme and does not receive any aid under the reconstruction programmes for former Yugoslavia.

(<sup>2</sup>) The state of Bosnia-Herzegovina's external debt is estimated at 3,38 x 10<sup>9</sup> USD.

Sources: ATLASCO 1998; The Economist Intelligence Unit.

## 1. INTRODUCTION

1.1. Following the conclusion of the Dayton-Paris peace settlement at the end of 1995 (<sup>9</sup>), the European Union (EU) allocated an overall indicative amount of 1 000 Mio

ECU for postwar reconstruction in former Yugoslavia over the period 1996-1999 (<sup>10</sup>) (see Table 1). This amount essentially comprises the EU's contribution to the 5 100 Mio USD (3 880 Mio ECU) priority reconstruction programme for Bosnia-Herzegovina that was adopted by the international community at the end of 1995 (<sup>11</sup>).

TABLE 1  
Budgetary sources of aid for reconstruction in former Yugoslavia (1996-1999)

(Mio ECU)

	Reconstruction aid	Aid for economic reforms	Total
PHARE programme (DG IA)	400	200	600
Specific headings (DG IA)	400	—	400
Emergency aid (ECHO)	p.m. ( <sup>1</sup> )	nil	p.m.
<b>Total</b>	<b>800</b>	<b>200</b>	<b>1 000</b>

(<sup>1</sup>) The decision on ECHO aid is taken annually in the course of the budget procedure. It is not subject to multiannual planning.

(<sup>9</sup>) The General Framework Agreement for Peace in Bosnia and Herzegovina was initialled at Dayton on 21 November 1995 and signed at Paris on 14 December 1995.

(<sup>10</sup>) Communication from the Commission on The European Union's financial contribution to reconstruction in former Yugoslavia, COM(95) 581 final, 18 December 1995.

(<sup>11</sup>) The World Bank set out the programme in the document 'Bosnia and Herzegovina: Priorities for Recovery and Growth' prepared for the first donors' meeting held in Brussels in December 1995. The programme was seen as the first phase of the reconstruction process.

*Annex 1* contains a breakdown of the budgetary appropriations for the EU and describes the allocation of responsibilities among the Commission departments concerned.

1.2. In its 1996 annual report the Court of Auditors pointed out that the progress of the reconstruction programme was very slow. In view of this alarming situation<sup>(12)</sup> the Court undertook a review of the

situation and the present report is the result of that work. The Court briefed the Commission on its findings throughout the inquiry.

1.3. *Table 2* shows that Bosnia-Herzegovina was the principal recipient of reconstruction aid over the 1996-98 period.

TABLE 2

Analysis of Commission aid for reconstruction and economic reform in former Yugoslavia financed from the 1996 and 1997 budgets, situation at 31 December 1997 (including emergency reconstruction aid)

(Mio ECU)

Country	Commitments	Contracts	Payments
<b>Reconstruction</b>			
Bosnia	522,9	273,9	199,5
Croatia	19,3	12,7	8,6
Serbia-Montenegro	0,0		0,0
FYROM	0,0	0,0	0,0
<b>Subtotal</b>	<b>542,2</b>	<b>286,6</b>	<b>208,1</b>
<b>Economic reform</b>			
Bosnia	12,0	5,5	0,8
Croatia	0,0	0,0	0,0
Serbia-Montenegro	0,0	0,0	0,0
FYROM	58,0	7,5	1,1
<b>Subtotal</b>	<b>70,0</b>	<b>13,0</b>	<b>1,9</b>
<b>Total</b>	<b>612,2</b>	<b>299,6</b>	<b>210,0</b>

Source: Court of Auditors

1.4. The objectives of the Court's audit were to evaluate the Commission's management of reconstruction aid in Bosnia-Herzegovina and Croatia and to assess the concrete effects of that aid at the end of 1997, i. e. midway through the 1996-99 programme<sup>(13)</sup>. Four on-the-spot audits were carried out in 1997 and two visits were made at the end of 1996 to the Member

State-based procurement agencies responsible for the Bosnian supply programme<sup>(14)</sup>. The visits were supplemented by detailed review of the accounts and files at the Commission's headquarters in Brussels.

## 2. SUMMARY OF PRINCIPAL OBSERVATIONS

2.1. The reconstruction programme for ex-Yugoslavia was started as a matter of urgency at the end of 1995.

<sup>(12)</sup> Annual report concerning the financial year 1996, OJ C 348, 18.11.1997, paragraphs 14.26 — 14.31.

<sup>(13)</sup> The operating costs of the Office of the United Nations High Representative (OHR) were financed to the extent of 10 Mio ECU in 1995 and 4,6 Mio ECU in 1997 using CFSP appropriations (B8-013). They were not audited because they lie outside the reconstruction operations framework. It is expected that they will be audited in the near future.

<sup>(14)</sup> Essential aid programme (EAP).

Two years later, almost all action taken concerned the Croat-Muslim Federation of Bosnia-Herzegovina (see paragraph 1.3 and paragraph 2 of the preface) and the rate of implementation was low (see paragraph 3.30).

2.2. Despite the fact that it had outlined a very ambitious strategy in four Communications (see paragraph 3.1) and clear guidelines existed (see paragraph 3.11), the Commission subsequently omitted to draw up a practical sectoral implementation programme, which would have made it possible to carry out that strategy in a coordinated manner (see paragraph 3.3), especially as regards ECHO aid. Such a programme would have been particularly useful in coordinating the measures on which refugee return relies.

2.3. The Commission concluded contracts with two procurement agencies under a programme for the supply of 125 Mio ECU of equipment to Bosnia-Herzegovina, but without adequate preparation, and was obliged to suspend the programme because it had over-estimated the beneficiary administrations' management capabilities (see paragraph 3.5).

2.4. Commission action was directed towards a large number of activity sectors (see paragraphs 3.4 — 3.6), but the Commission did not equip itself with the resources needed to fulfil its aspirations and did not redeploy to its operational units, either in Brussels or locally, the human resources that were needed for the multitude of measures to be carried out properly (see paragraphs 3.13 — 3.25). Furthermore, the units in question did not adequately review their procedures to take account of the need for speed, which slowed down both the decision-taking process and the rate at which measures were implemented (see paragraphs 3.28 — 3.37, 3.41, 3.46 — 3.50).

2.5. As a result of the coexistence of three separate regulations governing the budget articles used to finance the reconstruction measures, similar operations were subject to different rules and the European Union's management procedures were correspondingly complicated (see paragraphs 3.36 — 3.37).

2.6. Use of the UNHCR to implement housing repair projects added a costly link to the chain of command, without adding any additional technical skills (see paragraph 3.55). Moreover, the cooperation procedures which the Commission sought to impose on the UNHCR were incompatible with the global method of funding which the latter employs on its own programmes (see paragraph 5.7). Finally, the Commission was not able to exercise the level of supervision of UNHCR operations

that it would have wished and on several occasions was presented with a *fait accompli* when operations were abandoned or cut (see paragraph 4.13).

2.7. Even though land-mines continue to claim a considerable number of victims, as well as delaying the reconstruction programme, the amount of funds devoted by the Commission to mine clearance measures is very small and use of the funds has been particularly slow (see paragraph 3.32). Furthermore, the appropriations earmarked for this activity in 1997 were not used.

2.8. Housing reconstruction encountered many obstacles when projects were not thought through carefully at the beginning and the number of households that returned to their homes was much lower than expected (see paragraph 4.13). On a number of occasions housing was renovated, but remained unoccupied, either because the work was interrupted or because security and living conditions (including employment prospects) were impossible (see paragraph 4.18). The number of homes repaired is insufficient, which delays the return of displaced people to their homes and also slows down refugees' return, even though the latter is one of the European Union's main objectives (see paragraphs 3.8 and 4.8 and Annex 3).

2.9. In general the renewal of infrastructure in the health and education sectors has had a visible impact. Institutional reforms are still necessary in both these sectors, in order to ensure that services continue to function (see paragraphs 4.22 and 4.26).

2.10. As of end-1997 energy-sector projects had still had little impact (see paragraphs 4.29 — 4.30). The Commission did not ensure that the equipment supplied under the EAP was installed (see paragraph 4.28) and the other projects had still not started, because of delays in preparing calls for tenders (see paragraph 4.30).

2.11. Substantial sums were committed in the transport sector, although there was only an indirect link between these measures and the question of refugee return (see paragraph 4.33). However, the visibility of the aid earmarked for the reopening of public transport services in Sarajevo served to demonstrate the EU presence (see paragraph 4.34).

2.12. Although agriculture is an important source of employment, Commission support for this sector has remained relatively modest (see paragraph 4.49). Some



significant measures were undertaken in the areas of Una Sana and Banja Luka, but only after mid-1997 (see paragraphs 4.52 and 4.53). Commission support for the industrial sector was similarly limited (see paragraphs 4.54 — 4.56).

2.13. Apart from setting up a Customs and fiscal assistance office (CAFAO) (see paragraph 4.58), which is manifestly efficient and effective, the Commission did not attach sufficient importance to the reform of public administration, despite the enormous institutional needs of Bosnia-Herzegovina (see paragraph 3.7).

### 3. DESIGN AND IMPLEMENTATION OF AID PROGRAMMES

#### Commission strategy

3.1. In parallel with the Dayton agreement, the Commission outlined its strategy for reconstruction in former Yugoslavia in four complementary Communications at the end of 1995<sup>(15)</sup>.

#### Planning of DG IA measures

3.2. Regulation (EC) No 1628/96<sup>(16)</sup> laid down the following objectives for the reconstruction programme: 'to underpin the reconstruction process, to encourage the return of refugees, reconciliation and regional economic cooperation, and to create the economic and social conditions that will lay the foundations for the development of the recipient countries'. These objectives reiterate those of the Communication mentioned in footnote<sup>(15)</sup> (a).

3.3. The Commission did not adopt a practical sectoral implementation programme for carrying out its strategy. It ought to have evaluated its own strengths and weaknesses, as well as those of other donors, in order to identify the sectors in which it could make the greatest contribution and should have prepared its programme on that basis, within the coordinated international framework provided for in the Communication mentioned in footnote<sup>(16)</sup> (d). In that Communication

the Commission stated that coordination was to ensure 'the use of expertise and know-how specific to the various fund donors'. It did not even draw up a coordinated internal implementation programme, and the approaches adopted by DG IA and ECHO have not always been complementary.

3.4. As *Annexes 2.1 and 2.2* demonstrate, the Commission selected large spheres of intervention that enabled it to respond to all sorts of demands, but ultimately resulted in a dissipation of effort, which it was unable to control because it had not mobilised sufficient human resources.

3.5. In 1996, priority was given to a 125 Mio ECU Essential Aid Programme (EAP) which was to provide emergency supplies in order to restart the economy of Bosnia-Herzegovina by meeting priority needs in nine sectors<sup>(17)</sup>. The Commission undertook this operation even though it had only limited experience of reconstruction-related supply programmes. It thus supplied medical and educational equipment without taking into account ECHO's activities in the same areas. With regard to the EAP (Supply), the Commission relied extensively on the local authorities to identify needs and distribute goods. Its over-estimation of the managerial capabilities of the authorities in Bosnia-Herzegovina meant that it did not provide the necessary level of technical support and supervision. Implementation problems thus resulted in the Commission's suspending the EAP in November 1996, after it had committed 83 Mio ECU. The balance of 42 Mio ECU was used for a programme of aid that was mobilised through projects of the conventional type, whereby the Commission retains responsibility for the works up until the final hand-over, which was not the case with the supply programmes.

3.6. DG IA's 1997 programme comprised three areas which between them covered virtually every sector, namely:

- a) private-sector development and institution-building;

<sup>(15)</sup> (a) SEC(95) 1597 final, 27.9.1995;

(b) COM(95) 564 final, 17.11.1995;

(c) COM(95) 581 final, 18.12.1995;

(d) COM(95) 582 final, 20.11.1995.

<sup>(16)</sup> Council Regulation (EC) No 1628/96 of 25 July 1996, OJ L 204, 18.18.1996.

<sup>(17)</sup> This programme was in response to the World Bank's request for an initial wave of financing estimated at 360 Mio ECU and concerning 10 sectors of activity (COM (95) 3507 of 14.12.1995). The EU mine-clearance operations were financed separately from the EAP (see paragraph 3.32).

- b) social-sector support (refugees, housing, health and education);
- c) infrastructure (energy, transport, telecommunications and water supply).

3.7. Over the period 1996-97 the Commission did not play a significant role in the area of economic reform and institution-building (see paragraphs 4.54 and 4.57), especially in the health and education sectors, where needs were particularly acute (see paragraphs 4.22 and 4.26).

3.8. Given the importance that the EU Member States place on refugees' return the Commission should have made this issue one of its priorities when it first became involved, in 1996. It would also have been more logical, given that the two other main providers of funds (USAID and the World Bank) offer only limited aid to the housing sector. The Commission is free to determine the remits of its own departments and should have made ECHO, rather than DG IA, responsible for the question of refugees' return, on the grounds of the experience gained by ECHO in the social sector during the war years. In fact, ECHO is not only the principal partner of the United Nations High Commissioner for Refugees (UNHCR), who, in turn, is responsible for coordinating refugee aid<sup>(18)</sup>, but the NGOs with which ECHO concluded partnership agreements usually also have responsibility for implementing refugee-aid projects. Moreover, the humanitarian aid procedures allow ECHO to handle urgent rehabilitation measures more rapidly than DG IA (see paragraph 3.31), especially as regards the agreement of the local authorities, tendering and the level of advances to partners (up to 80 % of the total for the operations in question).

3.9. With regard to infrastructure projects, the European Union differs from other donors in that its procedures are not fast enough and it does not have the expertise required if it is to achieve a real impact within a reasonable space of time.

#### *Planning of ECHO*

3.10. Even though DG IA has a multiannual financial framework which allows it to plan its rehabilitation

operations, ECHO does not (see *Table 1*) and whereas conventional humanitarian aid can be adapted to an annual appropriations framework, rehabilitation assistance requires a longer-term outlook. In reality, ECHO is not even in a position to draw up annual estimates and the initial budget for article B7-2 1 4 was not enough to cover the whole of 1997 (see *Annex 1* paragraph 3). Whereas there were substantial calls on the contingency reserve in chapter B7-9 1 0 of the budget in 1996, in 1997 additional funds were taken from the PHARE programme during the second half of the financial year<sup>(19)</sup>.

3.11. Despite the intentions which the Commission published in its Communication to the Council and the European Parliament on linking relief, rehabilitation and development<sup>(20)</sup>, DG IA and ECHO did not adopt any joint arrangements for the gradual disengagement of the Humanitarian Office during the 1996-99 period. Similarly the task force comprising staff responsible for humanitarian aid and staff from development aid departments, which should have coordinated the transition, was not responsible for drawing up aid programmes.

3.12. In 1996 ECHO focused its activities on basic social infrastructure (particularly schools and health facilities) as well as water and electricity supply infrastructure, but its involvement in the housing sector was limited. The projects proposed by the NGOs were appraised, but there were no criteria to ensure that selection was systematic and transparent. ECHO, on the other hand, adopted an intersectoral approach and a set of coherent criteria for the 1997 projects, which should improve the impact of the aid from this source, particularly in the housing sector, where its involvement has increased.

#### *Organisation of DG IA departments*

3.13. DG IA's inability to redeploy the human resources needed for the reconstruction operations was the main stumbling block in the programme of aid for former Yugoslavia. The sum of 1 000 Mio ECU was approved at political level without a proper assessment of the Commission's managerial capacity having been carried out beforehand. The Commission had already pointed

<sup>(18)</sup> Under the Dayton-Paris accord (Annex 5).

<sup>(19)</sup> See Special Report No 2/97 concerning humanitarian aid from the European Union between 1992 and 1995, OJ C 143, 12.5.1997, paragraphs 2.14 to 2.16.

<sup>(20)</sup> COM(96) 153 final, 30.4.1996.

out that its departments did not have sufficient staff, in its 'Communication on the reconstruction in former Yugoslavia: EU aid administration and international aid coordination', and stated that it would take the necessary corrective measures (see footnote <sup>(15)</sup>(d)).

3.14. Despite this declaration of intent and the programme's financial and political importance, both the development of sectoral guidelines and the management and on-the-spot monitoring of projects in 1997 were in the hands of just five task managers in Brussels, none of whom were permanent members of the Commission's staff, and most of whose contracts end in mid-1998. The Commission Delegation in Sarajevo was also short of staff for monitoring the reconstruction programme, to which it assigned only two auxiliary staff supervised by the Head of Delegation and his assistant. The Commission did not open an Office in Croatia until April 1997. In September 1997 the Office still had only one special envoy, assisted by local staff <sup>(21)</sup>. In Bosnia and Croatia the Commission has not used local staff to monitor programmes, unlike other donors, although it does do this in its Delegations in PHARE countries.

3.15. A useful comparison is Poland, which has an annual funding allocation comparable to that of Bosnia. The Warsaw Delegation has 18 category A staff, 10 of whom are local.

3.16. In 1996 the financing of the Commission's office in Sarajevo was largely improvised. A substantial proportion of the Office's running costs were met through the EAP: personnel (463 582 ECU), equipment (282 000 ECU) and operating costs (157 000 ECU), whereas such expenditure should have been financed from Part A (administrative expenditure) of the Commission's budget <sup>(22)</sup>. These operating costs were covered out of the cash advances that the Commission paid to the procurement agencies that were responsible for implementing the programme. As well as lacking transparency, this irregular procedure made the Commission Office unduly dependent on the agencies that it was also responsible for supervising. Furthermore,

the Commission had to pay agency fees of 5 000 ECU to the agencies for straightforward transfers of funds.

3.17. Similarly, in eastern Slavonia, DG IA used unorthodox procedures to finance its administrative expenditure. In this instance it used an NGO, supervised by an expert on contract, as a screen to employ 27 people in Vukovar to draw up and implement its reconstruction programme <sup>(23)</sup>. The Commission kept its Vukovar 'branch' open without any changes, even after the Zagreb Representative's Office opened in April 1997. Even though this is better than nothing as a way of mobilising aid, it is unacceptable for the European Union to use such arrangements when it is working with other donors and the United Nations mission (UNTAES) in the region and is the largest donor in eastern Slavonia.

3.18. The shortage of staff at the Commission Delegation in Sarajevo and its limited decision-making powers have reduced the scope for local coordination with other donors. For example, the OHR in Bosnia <sup>(24)</sup> has set up a system of sectoral task forces comprising representatives of the various donors, in order to encourage coordination, but the Commission does not chair any of these task forces and is unable to make any significant contribution to them, because of its lack of on-the-spot resources.

3.19. Management of the programme in Bosnia has remained highly centralised, even though PHARE programme management is substantially decentralised and Regulation (EC) No 1628/96 <sup>(25)</sup> provides that Commission assistance shall, as far as possible, be granted on a decentralised basis <sup>(26)</sup>. Notwithstanding this requirement the role of the Commission Delegation in Sarajevo has remained marginal, through being often ill-defined.

3.20. While the difficulties encountered by the EAP (Supply) partly account for the Commission's centralised approach (see paragraph 3.5), this centralisation has itself caused problems, not only during the negotiation of financing agreements with the authorities in Bosnia-Herzegovina, but also when the content of the projects was being determined. In other central and eastern European countries the Commission has set up a

<sup>(21)</sup> An assistant, a secretary and a driver.

<sup>(22)</sup> See the Annual Report concerning the financial year 1996, paragraphs 14.29 to 14.31, OJ C 348, 18.11.1997.

<sup>(23)</sup> Many of these people, as well as the expert, were former members of the team set up by the European Union to administer the town of Mostar between 1994 and 1996.

<sup>(24)</sup> The Office of the High Representative was set up under the Dayton Agreement to oversee civilian aspects of the peace agreement (see paragraph 1.4, note 13).

<sup>(25)</sup> Article 5.

<sup>(26)</sup> With the exception of the supplies EAP, namely 83 Mio ECU.

system of programme management units (PMUs) to mobilise its PHARE aid. Under this system, which was introduced in the light of the recommendations made by the Court in its Special report concerning the decentralised system for the implementation of the PHARE programme<sup>(27)</sup>, the number of PMUs is limited and financial management for the programme is centralised in one of them. In Bosnia such a system would have provided a compromise between decentralisation and the over-centralisation that was adopted there. PMUs are set up in the ministries of beneficiary countries and are staffed by both national civil servants and foreign consultants, the latter being financed under the PHARE programme. The PMUs are supervised by the local Commission Delegation. This system provides an important interface between the Commission and the ministries and facilitates dialogue on aid implementation.

3.21. In Bosnia the World Bank has set up structures comparable to the PMUs in the various ministries of the two entities to manage the international aid which it coordinates. The Commission has made little use of such structures. At the end of 1997 the World Bank indicated that it would very soon have disbursed the bulk of the funds that it intends to devote to reconstruction. The Commission should take over the lead role by providing technical assistance to these structures, in order to support the institution-building process needed to achieve sustainable recovery in Bosnia.

3.22. A further consequence of the lack of decentralisation to the Commission Delegation in Sarajevo has been the slowness of the programme implementation procedures (see paragraphs 3.28 — 3.50). This approach is in marked contrast to that selected for the European Union's reconstruction programme in Mostar, where 39 expatriate civilian staff were employed to administer the programme on the spot.

3.23. In the same context, it should be noted that CAFAO<sup>(28)</sup>, which is one of the Commission's most successful operations in Bosnia (see paragraphs 4.58 — 4.59), is managed in a highly decentralised manner by DG XXI<sup>(29)</sup>. The office of around 35 staff thus operates under the authority of the local representative, a DG XXI consultant. The latter has considerable independence and carries the responsibility of implementing its programme himself, without excessive intervention by Commission headquarters.

3.24. In 1996 the World Bank also opted for extensive decentralisation of its operations in Bosnia, where it has

around a dozen expatriate staff and some twenty locally-employed staff. Similarly, USAID, the third largest donor, set up an office in Sarajevo with some twenty expatriate staff and around one hundred local staff to cover the whole of Bosnia.

3.25. The lack of an implementation programme for both the allocation of aid and the strengthening and restructuring of DG IA's departments is partly linked to the turnover among directors responsible for reconstruction in former Yugoslavia. In the beginning and until October 1996 two separate directorates in DG IA were responsible for managing the reconstruction programme: the first for PHARE and the second for the other budget headings. Both directors were replaced at the end of 1996 by a single director who, in turn, was transferred in mid-1997, but the latter's replacement was not appointed until November 1997. This lack of continuity in programme management slowed down decision-taking and led to prevarication among those responsible for implementation.

#### *Organisation of ECHO departments*

3.26. In contrast to DG IA, almost all the ECHO staff responsible for Bosnia are located in country. For example, in September 1997 17 staff (including 16 experts on contract) were divided among five regional offices. These regional offices have considerably increased ECHO's performance in identifying the projects that are likely to satisfy local needs. There is, however, a risk that the arrangements could be jeopardised by the unsatisfactory procedures for renewing the contracts of experienced, non-permanent staff.

3.27. Whilst ECHO's operations in Bosnia are, in fact, decentralised in terms of personnel, its procedures for authorising projects, contracts and payments are still centralised. Decentralisation in these areas could result in even more rapid mobilisation of funds, even if it means establishing a system of thresholds above which authorisation would have to be sought from headquarters.

#### **Programme implementation**

##### *Rate of utilisation of appropriations*

3.28. Table 3 shows the main budget headings relating to reconstruction in former Yugoslavia, with the rates of implementation as at 31 December 1997.

<sup>(27)</sup> OJ C 175, 9.6.1997.

<sup>(28)</sup> Customs and Fiscal Assistance Office

<sup>(29)</sup> Directorate-General for Customs and Indirect Taxation.

TABLE 3

Rate of implementation of aid for rehabilitation and reconstruction in former Yugoslavia financed from the 1996 and 1997 budgets, situation at 31 December 1997

(Mio ECU)

Budget heading	Budget article	Commitment appropriations			Payment appropriations			Call-down rate of commitments entered into (%)
		Budget Orig	Budget Rev	Commitments	Budget Orig	Budget Rev	Payments	
Phare	B7-500 <sup>(1)</sup> 1996	128,00	128,00	128,00	50,52	50,52	50,52	39,47
	B7-500 <sup>(1)</sup> 1997	0,00	0,00	0,00	41,28	41,28	41,28	0,00
	B7-543 <sup>(2)</sup> 1997	127,00	73,00	73,00	115,00	22,50	0,68	0,93
	Subtotal	255,00	201,00	201,00	206,80	114,30	92,48	46,01
Reconstruction	B7-541 1996	33,00	33,00	32,90	22,00	22,00	4,70	14,29
	B7-541 1997	58,00	120,40	119,10	55,00	40,00	22,87	19,20
	Subtotal	91,00	153,40	152,00	77,00	62,00	27,57	18,14
Refugees	B7-542 <sup>(3)</sup> 1996	30,00	30,00	30,00	30,00	30,00	4,10	13,67
	1997	0,00	0,00	0,00	0,00	0,00	0,00	—
	Subtotal	30,00	30,00	30,00	30,00	30,00	4,10	13,67
Europe for Sarajevo	B7-545 1996	35,00	35,00	35,00	25,00	25,00	0,50	1,43
	B7-545 <sup>(4)</sup> 1997	30,00	23,60	23,60	15,00	19,00	4,13	17,50
	Subtotal	65,00	58,60	58,60	40,00	44,00	4,63	7,90
Customs assistance missions in association with Bosnia-Herzegovina	B7-7002 1996	7,10	7,10	7,10	7,10	7,10	7,10	100,00
	B7-544 1997	4,10	8,10	8,10	4,00	7,00	4,76	58,77
	Subtotal	11,20	15,20	15,20	11,10	14,10	11,86	78,03
Action concerning anti-personnel mines	B7-615 1996	6,70	6,70	6,70	6,70	6,70	3,40	50,75
	B7-661 1997	2,40	2,40	0,00	2,40	2,40	0,00	—
	Subtotal	9,10	9,10	6,70	9,10	9,10	3,40	50,75
Subtotal DG IA	1996	239,80	239,80	239,70	141,32	141,32	70,32	29,34
	1997	221,50	227,50	223,80	191,40	90,90	73,72	32,94
	1996-97	461,30	467,30	463,50	332,72	232,22	144,04	31,08
Subtotal ECHO (B7-214) <sup>(5)</sup>	1996	20,06	20,06	20,06	11,14	11,14	11,14	55,53
	1997	58,63	58,63	58,63	52,91	52,91	52,91	90,24
	1996-97	78,69	78,69	78,69	64,05	64,05	64,05	81,40
Total Commission	1996	259,86	259,86	259,76	152,46	152,46	81,46	31,36
	1997	280,13	286,13	282,43	244,31	143,81	126,63	44,84
	1996-97	539,99	545,99	542,19	396,77	296,27	208,09	38,38

<sup>(1)</sup> Article B7-500 does not contain any annual budget allocation for reconstruction in former Yugoslavia.

<sup>(2)</sup> The figures do not include the economic aid to FYROM, namely 23 Mio ECU.

<sup>(3)</sup> The budget allocation for refugees for 1997 is included in the reconstruction allocation.

<sup>(4)</sup> The revised budget for payment appropriations includes 14 Mio ECU of 1996 appropriations carried over exceptionally to 1997.

<sup>(5)</sup> ECHO does not set a specific budgetary allocation for its rehabilitation measures in former Yugoslavia.

3.29. Implementation of the appropriations allocated by the EU for reconstruction was slowed down by the lack of an implementation programme, shortage of staff, excessive centralisation and the institutional weaknesses of the local authorities. As a result, the Commission transferred 130 Mio ECU of payment appropriations (59,1 % of the initial appropriations) from the budget headings for former Yugoslavia to other budget articles in 1997. EIB loans and macro-financial assistance were not utilised, whilst cooperation with the EBRD remained very limited.

3.30. As of 31 August 1997, the latest date at which comparable figures are available for all donors, the disbursement rate of the EU's reconstruction programme (29 %) was relatively low compared with that of other donors, whose average was close to 52 % (see Table 4). This shortcoming appeared to be largely due to the EU's aid implementation procedures. At 31 December 1997 the disbursement rate was still only 31 % (see Table 3). If the EAP (Supply) is excluded, the payments represent not more than 17 % of commitments.

TABLE 4

## Aid mobilised by the international community at 31 August 1997

(Mio ECU)

Donor <sup>(1)</sup>	Commitments		Payments	
	Amount	(%)	Amount	Fraction of commitments (%)
DG I/A (reconstruction)	422	15	123	29
ECHO	47	2	35	74
EU administration in Mostar <sup>(2)</sup>	36	1	35	97
<b>Subtotal Commission</b>	<b>505</b>	<b>18</b>	<b>193</b>	<b>38</b>
Member States	600	21	328	55
Other European countries	197	8	124	63
Arab countries	147	5	49	33
United States	431	16	335	78
Japan	175	6	52	30
World Bank	475	17	248	52
EBRD	90	3	2	2
Other countries	120	4	35	29
<b>Subtotal other donors</b>	<b>2 235</b>	<b>82</b>	<b>1 173</b>	<b>52</b>
<b>Total</b>	<b>2 740</b>	<b>100</b>	<b>1 366</b>	<b>50</b>

<sup>(1)</sup> The UNHCR is considered not as a donor but as an agency which collects funds from donors in order to implement action programmes.

<sup>(2)</sup> The EU administration in Mostar was the subject of Special Report No 2/96 concerning the administration of Mostar by the European Union (OJ C 287, 30.9.1996), the operations financed under the CFSP are not discussed in the present report.

Source: World Bank and Commission, November 1997.

3.31. ECHO's internal procedures are actually designed to mobilise humanitarian aid quickly (payment of advances representing up to 80 % of the total contracted for the operation) and this has improved the implementation rate (the disbursement rate for commitments entered into is 74 %). In addition, ECHO assistance does not require the government authorities in the recipient country to authorise each operation in advance. The increased risk resulting from paying

substantial advances is, however, lessened by the relatively stable relationship between ECHO and its partners, which is governed by partnership contracts <sup>(30)</sup>.

<sup>(30)</sup> See Special Report No 2/97 concerning humanitarian aid from the European Union between 1992 and 1995, OJ C 143, 12.5.1997, paragraphs 4.11-4.21.

3.32. Even though land-mines kill or injure an average of 35 people a month in Bosnia<sup>(31)</sup> and despite the fact that mine-clearance operations have often been a preliminary to reconstruction projects, the small amount of donor aid available in this sector has been mobilised slowly and cooperation on the part of Bosnia-Herzegovina has remained very inadequate, because of reluctance to mobilise the necessary resources. In the case of the European Union there were no payments from the special budget article for mine clearance (B7-6 1 5 6,7 Mio ECU), owing to the problems of finding contractors able to carry out the work. In 1997, the funds allocated to this budget heading (B7-6 6 1) were cut to 2,4 Mio ECU and no clearance work had been committed as at 31 December 1997.

#### *Project preparation*

3.33. In the case of both PHARE aid and the reconstruction aid (B7-5 4) the Commission's extremely limited presence on the ground diminished its ability to analyse local circumstances and prevented projects from being identified and fully processed within reasonable time-scales. All too often proposals were drawn up following short visits by Commission consultants or agents who had neither detailed knowledge of local constraints nor a stable link to the national administrations, both of which are essential if project proposals are to be sound. The redefinition of the Vukovar reconstruction project (5,3 Mio ECU) in July 1997, a year after it had been approved, provides a good illustration of this (see paragraph 4.6).

3.34. The International Management Group (IMG) set up in 1993 under the aegis of the UNHCR<sup>(32)</sup> employs some 140 foreign and local staff throughout Bosnia and approximately 60 % of its budget is financed by the European Union, but DG IA has only used IMG's services intermittently, unlike ECHO, which has often

called on them. IMG's assistance is particularly useful in examining the proposals and specifications put forward by the consultants or NGOs when technical proposals are submitted. The use of IMG in a more operational capacity under the authority of a single Commission representative (who would be responsible for all the measures financed by the EU budget) is an avenue that should be explored at the earliest opportunity.

3.35. The Commission's approach is over-reliant on NGO proposals (and could be described as NGO-demand driven). By acting in this way the EU delegates its responsibilities to NGOs over which it does not have adequate control. This is confirmed by the way in which the Commission called together dozens of NGOs on 23 January 1998 and, without further clarification, asked them to submit projects for encouraging the return of refugees (sum involved: 70 Mio ECU) by 19 February 1998. In 1996 and 1997 the administrative procedures between submission of NGO projects and signature of DG IA contracts normally took six months. In some cases, projects had to be redesigned because they were overtaken by events during these administrative delays.

#### *Contracting*

3.36. The existence of two Regulations (see *Annex 1* paragraph 2) for similar operations<sup>(33)</sup> has hampered the Commission's managerial task. For example, at the end of 1997 contracts were still being processed by two departments, depending on the financing source used<sup>(34)</sup>, despite the similarity of the measures in question.

3.37. The general conditions for PHARE contracts are designed for technical assistance to support economic restructuring measures, rather than priority reconstruction programmes. In an attempt to remedy this shortcoming, the Commission made an exception for the EAP, so that contracts were awarded following restricted invitations to tender. *Table 5* sets out the procedures under which these contracts were awarded.

<sup>(31)</sup> Source: Report on demining activities in Bosnia and Herzegovina by the United Nations demining action centre between January 1996 and September 1997.

<sup>(32)</sup> IMG was set up to enable reconstruction operations in Bosnia to start quickly once hostilities had ended. See Special Report No 2/97 concerning humanitarian aid from the European Union between 1992 and 1995, paragraph 2.25(a), OJ C 143, 12.5.1997.

<sup>(33)</sup> The third Regulation on emergency aid applies only to the operations funded by ECHO.

<sup>(34)</sup> Directorate B for PHARE contracts and Directorate F for contracts financed in accordance with Regulation (EC) No 1628/96.

TABLE 5

## Procedure for awarding contracts under the essential aid programme (EAP) (supplies)

Awarded by:	Cases where applicable	Value of contract	Minimum number of enterprises to be consulted	Minimum time allowed for submission of tender
Private treaty	a) humanitarian measures b) purchase of spare parts c) any contract for less than 10 000 ECU	not significant	1	unspecified
Consultation by fax	a) all contracts for a value of more than 10 000 ECU and less than 100 000 ECU b) reconstruction and housing or supply of equipment for public administration	a) less than 100 000 ECU	5	5 days
		b) between 100 000 ECU and 1 Mio ECU	7	10 days
		c) more than 1 Mio ECU	12	15 days
Restricted call for tenders	Any contract outside the above categories	a) between 100 000 ECU and 1 Mio ECU	5	10 days
		b) more than 1 Mio ECU	12	21 days

3.38. Two procurement agencies concluded contracts totalling 73 Mio ECU (see paragraph 3.5) with enterprises in Member States or PHARE countries under the EAP. The Commission took 3,7 Mio ECU from programme funds in order to pay these intermediaries.

that other measures had to be abandoned in consequence. It was actually not in the procurement agencies' interest for the prices tendered to be the lowest possible because their remuneration was calculated as a percentage of the contract price;

3.39. Review of a sample of 76 contracts accounting for 71 % of the purchases made under the EAP (Supply) revealed the following shortcomings:

- a) the procurement agencies' files contained no written account of the criteria used to select the tenderers that were on the restricted lists. In many cases the enterprises from which tenders were sought did not make bids because they did not produce the type of goods requested;
- b) on average, fewer than two tenders were received that actually complied with the technical specifications governing the contracts and there was, therefore, very little price competition;
- c) in 46 % of the cases examined, the lowest tender was higher than the budget for the operation, so

d) in 39 % of cases the enterprises consulted had not been allowed the minimum time for submitting their tenders (see *Table 5*);

e) one of the agencies refused to pay successful tenderers the 60 % advances stipulated for supplies contracts in the PHARE Regulation, which meant that fewer tenders were received and also allowed the agency to retain substantial funds at the bank for an extended period;

f) the other agency was unable to show who had been present in the tender examination committee. Furthermore in the case of both committees the committee members had not signed declarations of impartiality;



- g) the procurement agencies several times sought bids from enterprises that were unlikely to be interested in tendering, solely for the purpose of establishing a geographical balance between the tenderers for the contract concerned;
- h) the main contract in the electricity sector (4,9 Mio ECU, increased to 6,4 Mio ECU following an amendment of the contract) was awarded to the only enterprise that had submitted a tender for each of the 19 lots. The various items could have been obtained at considerably lower cost<sup>(35)</sup> if the contracts had been awarded lot-by-lot, as was the case with other contracts. This method would have cost the procurement agency more in administrative terms, however, and its remuneration for the operation would thus have been proportionately lower;
- i) in the case of three contracts involving agricultural supplies to a value of 990 385 ECU the contracts were awarded to enterprises whose bids were not the most advantageous or to enterprises whose bids were unacceptable.

3.40. Whilst Croatia has access to contracts financed on the basis of Regulation (EC) No 1628/96, it did not have access to PHARE contracts and was excluded from the EAP, even though it has always been Bosnia's main supplier. Moreover, whilst the PHARE Regulation allows

access to PHARE contracts for all countries participating in the programme, those same countries do not have access to the contracts funded on the basis of Regulation (EC) No 1628/96. Such distinctions are absurd.

3.41. Regulation No 1628/96 allows service contracts for a value of less than 200 000 ECU to be awarded by private treaty, in order to speed up implementation of the reconstruction programme. The Regulation does not, however, contain a similar derogation for supplies and works contracts, even though a far higher proportion of aid is mobilised in that way.

3.42. As of end-1997, of the contracts concluded by DG IA outside the EAP only 11,3 % by value had been awarded following invitations to tender (see *Table 6*). In fact, 88,7 % of contracts were concluded with non-profit-making organisations (NGOs, public bodies and international organisations) or under other circumstances where the Financial Regulation (Article 118(2)) permits private treaty. All the ECHO contracts were also concluded with NGOs or international organisations, but under the procedures applicable to humanitarian aid<sup>(36)</sup>. However, for reasons of transparency, and given the competition to which these organisations are exposed in order to obtain EU subsidies, the selection of each operator should be justified by a note from the Commission's operational departments detailing, *inter alia*, the organisation's previous work and the quality of the services provided<sup>(37)</sup>.

<sup>(35)</sup> The Court estimates that the savings that could have been achieved by contracting each lot separately are of the order of 978 000 ECU.

<sup>(36)</sup> Council Regulation (EC) No 1257/96 of 20 June 1996, OJ L 163, 2.7.1996, p. 1.

<sup>(37)</sup> See Special Report No 2/97 concerning humanitarian aid from the European Union between 1992 and 1995, OJ C 143, 12.5.1997, paragraphs 3.13 and 3.15.

TABLE 6

Method of awarding contracts under the reconstruction programmes (non-EAP) (1.1.1996-31.12.1997)

(Mio ECU)

Contractor	PHARE				Regulation (EC) No 1628/96				TOTAL			
	No	%	Value	%	No	%	Value	%	No	%	Value	%
<b>Private treaty</b>												
NGO	1	2,70	0,29	1,13	21,00	24,14	27,72	37,19	22,00	17,74	28,01	27,94
International organisations <sup>(1)</sup>	4	10,81	11,00	42,78	14,00	16,09	38,20	51,25	18,00	14,52	49,20	49,08
Bosnian institutions	1	2,70	0,75	2,92	4,00	4,60	2,78	3,73	5,00	4,03	3,53	3,52
Framework contracts	21	56,76	4,21	16,37	0,00	0,00	0,00	0,00	21,00	16,94	4,21	4,20
Amounts below statutory threshold	4	10,81	0,11	0,43	46,00	52,87	3,90	5,23	50,00	40,32	4,01	4,00
Subtotal private treaty	31	83,78	16,36	63,63	85,00	97,70	72,60	97,41	116,00	93,55	88,96	88,75
<b>Calls for tenders</b>												
All contractors	6	16,22	9,35	36,37	2,00	2,30	1,93	2,59	8,00	6,45	11,28	11,25
Total	37	100,00	25,71	100,00	87,00	100,00	74,53	100,00	124,00	100,00	100,24	100,00

<sup>(1)</sup> UNHCR contracts represent 37 % of total value

3.43. Many contracts concluded with NGOs or international organisations comprise a high proportion of work that is subcontracted to construction companies, in principle following invitations to tender. Until August 1997 international invitations to tender were required for contracts between the Commission and NGOs whenever operations were valued over 10 000 ECU, which slowed such operations down. In the case of PHARE, the procedures for implementing works contracts were not adopted until November 1997.

3.44. DG IA did not attempt to limit the fees paid to NGOs and international organisations and did not reach an agreement with ECHO in order to ensure that the Commission follows a uniform approach when the operations in question are of a similar nature <sup>(38)</sup>. For example, DG IA accepts a considerably higher level of fees than those accepted by ECHO for identical operations. Moreover, there are considerable differences in fees, from contract to contract (between 2 566 and 12 100 ECU per month <sup>(39)</sup>).

<sup>(38)</sup> See Special Report No 2/97 concerning humanitarian aid from the European Union between 1992 and 1995, OJ C 143, 12.5.1997, paragraphs 4.23 and 4.24.

<sup>(39)</sup> According to the ECHO scale the top rate of fees for expatriates is 3 800 ECU per moth.

3.45. In former Yugoslavia ECHO's monthly-fee scale for local staff is 280 ECU, which is far too low for NGOs to be able to recruit and keep quality local staff <sup>(40)</sup>. ECHO operational contracts proved to be unsuitable for relatively complex rehabilitation projects, in the sense that no final version of the project specifications was drawn up and there were no rules for setting the guarantee period for works or determining the retentions to be made pending acceptance of the works.

#### Payments

3.46. Projects were often held up as a result of the slowness with which advances were paid. A review of the contracts financed under Regulation No 1628/96 revealed that in 40 % of cases the Commission had still not paid any advance three full months after work on the contracts had started, which is late for contracts whose duration is often limited to six months and for beneficiary organisations whose cash flow is usually small.

<sup>(40)</sup> Special Report No 2/97 concerning humanitarian aid from the European Union between 1992 and 1995, OJ C 143, 12.5.1997, paragraph 4.22 (c).

3.47. In half of the cases the delays were due to the fact that NGOs' applications were not submitted in good and due form. The bank guarantee procedures caused many delays where DG IA was concerned, whereas ECHO does not require guarantees for similar operations.

3.48. In other cases the Commission's internal administrative procedures were the cause of the delay. For example, applications for advances must be approved by operational departments that are already overloaded. The approval is purely formal and is unnecessary when a contract has been duly concluded<sup>(41)</sup>. Delays also arose as a result of the fact that the Commission departments were slow in processing files, despite the urgency of the operations concerned.

3.49. The case of the rehabilitation of a small part of Bosnia's National Parliament building, which is questionable in itself (it involved the renewal of the first floor of the six-storey building, but did not include the central first-floor chamber) and was co-financed by the World Bank, provides a good example of the difficulties caused by late payments. Even though completion of the project was planned for the end of October 1996, the contracts relating to the European Union's contribution were not signed until April 1997, with August 1997 as the new expiry date (a 10-month delay). Despite this initial delay, the Financial Controller (DG XX) blocked the advance-payment application submitted in May 1997, taking the view that the advance should be paid in ecu and not German marks, despite the terms of both the financing agreement and the contract. DG XX insisted that the financing agreement and the contract must be amended, and the advance was not paid until October 1997 in consequence. This first advance made it possible to start work, but progress was again hindered by the Commission's tardiness in paying subsequent advances. Until the work financed by the Commission makes it possible to complete the World Bank's part, which was almost finished in February 1997, the Parliament of the State of Bosnia-Herzegovina sat in other buildings that had been renovated by another donor.

3.50. Under the EAP (Supply) progress on housing-sector projects was hampered by delays in the

payments that the procurement agency was to make to enterprises from Bosnia-Herzegovina. Some enterprises were obliged to suspend or slow down their work in order to avoid suspending payment themselves. This situation was the result of the inefficient procedures set up jointly by the Commission and the agency and was made worse by the shortcomings of the banking system in Bosnia-Herzegovina.

#### *Project monitoring and evaluation*

3.51. Except for humanitarian aid, there is no consistent mechanism for monitoring and evaluating reconstruction activities (B7-5 0 and B7-5 4). The logical framework method that is applied to other external aid is not used in the preparation of the Commission's financing proposals. Moreover, none of the Commission's offices in Bosnia or Croatia are equipped to undertake a serious review of the operations.

3.52. The Commission engaged consultants to oversee the EAP (Supply) in May 1996, four months after the programme had started. Initially their effectiveness was diminished because their mandate conflicted with that of the procurement agencies, which had their own representatives in Bosnia. The Commission did not institute procedures for following up consultants' observations and recommendations quickly. It financed an evaluation of the EAP (Supply) in October 1997, but the findings are not expected to be known before April 1998. The accounts of the programme funded by the Commission must be audited when the results have been published.

3.53. The Commission did not pay sufficient attention to certain financial aspects of the EAP:

- a) in the agricultural sector, the Commission did not adopt procedures for managing the counterpart funds<sup>(42)</sup> generated by sales of supplies (motor cultivators: 4,6 Mio ECU; pesticides: 0,25 Mio ECU) (see paragraph 4.51);
- b) there were no arrangements for checking the interest earned by the procurement agencies on the cash advances paid by the Commission, even though the interest in question amounted to at least 1,21 Mio ECU at the end of 1997;

<sup>(41)</sup> Under the TACIS programme administered by DG IA, applications for advances are not subject to approval by operational departments. The accountant must in all cases ensure that the payment is accompanied by the supporting documents stipulated in the Financial Regulation.

<sup>(42)</sup> Funds generated by the sale to final beneficiaries of goods supplied to the authorities in Bosnia-Herzegovina.

c) lastly, the Commission did not institute basic accounting controls for advances. For example, it did not require funds received, expenditure paid and funds available at bank to be reconciled at regular intervals. The Court thus found that the sum of the advances recorded in one agency's accounts was 89 527 ECU lower than the payments recorded by the Commission.

3.54. Outside the EAP, DG IA set up a system during the second half of 1997 to monitor the housing sector in Bosnia, but it did not organise any continuous monitoring for the rest of the reconstruction programme, which nevertheless accounted for 70 % of all the funds committed as of 31 December 1997.

3.55. Although the UNHCR was also paid by the Commission to oversee utilisation of the 45 Mio ECU of reconstruction projects that DG IA and ECHO financed through it, several difficulties were noted with regard to the management of the operations:

- a) UNHCR usually uses the same NGOs as the Commission to carry out reconstruction projects. The EU pays the UNHCR to verify technical aspects of the operations, even though the latter has very little experience in this field. The Commission would achieve a better cost/efficiency ratio if it implemented the housing-reconstruction projects itself via the NGOs;
- b) in several cases<sup>(43)</sup> Commission funds were allocated by UNHCR as finance for projects other than those provided for in the contracts concluded between the Commission and UNHCR. Faced with a *fait accompli*, the Commission systematically approved the amendments *ex post facto*. In other cases the amounts allocated to some subprojects were increased significantly, to the detriment of others, but the Commission was not informed before the end of the contract;
- c) the Commission did not require the UNHCR to forward the subcontracting agreements concluded with its partners. This lack of information makes it

practically impossible for Commission departments to carry out proper supervision<sup>(44)</sup>;

- d) in the case of one housing-repair contract financed by the Commission through the UNHCR in the canton of Una Sana, it was not possible for the Court to gain assurance as to the use of 459 000 DM of materials that were invoiced in respect of apartments repaired in Velika Kladusa.

#### 4. IMPACT OF THE OPERATIONS

##### Geographical distribution

##### *Entities constituting Bosnia-Herzegovina*

4.1. The Federation received approximately 90 % of the aid. Although it had been intended that 30 % of the funds should be allocated to Republika Srpska, failure to comply with the political conditions imposed by the European Union and some aspects of the Dayton Agreement led to the aid being suspended several times in both 1996 and 1997, notably in an attempt to bring war criminals to justice. In neither entity, on the other hand, was aid conditional on the progress of economic reforms.

4.2. In terms of projects very little has been achieved by way of bringing the two entities together. The main action in this area was the re-establishment of telephone communications (see paragraph 4.46). Some housing repair projects (notably in Posavina) also gave rise to a certain amount of trade between entities.

##### Sarajevo

4.3. Mobilisation of the 65 Mio ECU funding allocated to Sarajevo by DG IA in 1996 and 1997 has been extremely slow and had had little effect by the end of 1997. Among the main reasons for this are the difficulty the Commission has had in establishing a constructive dialogue with the Sarajevo authorities and the fact that within DG IA one person has been designated to manage both the Europe for Sarajevo and the refugee-return programmes.

<sup>(43)</sup>Including the DG IA contract of October 1996 for reconstruction in eastern Slavonia (see paragraph 4.13 (d), 2,7 Mio ECU) and the ECHO contract of June 1996 covering operations in Bosnia-Herzegovina (28 Mio ECU).

<sup>(44)</sup>Special Report No 2/97 concerning humanitarian aid from the European Union between 1992 and 1995, OJ C 143, 12.5.1997, box 2.

### Una Sana (Federation)

4.4. Although this canton is a priority area, because of its high potential for refugee return from EU Member States<sup>(45)</sup>, action in the area has been modest. In August 1996 the Federation authorities submitted a 39,5 Mio ECU programme proposal for the canton to the Commission, following consultation with Germany<sup>(46)</sup>, but the Commission did not think it possible to base a financing plan on the proposal. At the end of 1997 no overall plan had been adopted and no integrated programme had yet been proposed.

### Brcko (Republika Srpska)

4.5. Only after the deferral, in February 1997, of the arbitration decision on the future of the town did the donor community elect to make this a priority area for reconstruction aid. As of end-1997, DG IA had still not taken any significant action. In fact, even though 2 Mio ECU was allocated to an integrated programme for returnees to Brcko under the reoriented EAP in November 1996, the contract to implement this measure had still not been signed at the end of 1997.

### Croatia

4.6. Although a 5,29 Mio ECU programme to assist the very heavily damaged town of Vukovar was approved by the Commission in July 1996, the Commission aid had very little impact in 1996 because the project was badly prepared and had to be redefined in July 1997 (see paragraph 3.33). By the end of 1997 funding for the repair of apartments and water and electricity supply networks was beginning to have an effect.

4.7. A major housing repair scheme (2,7 Mio ECU) for implementation by the UNHCR in front-line villages of eastern Slavonia has been blocked for more than a year because of the obstructive attitude of the Croatian authorities. In this case, too, the UNHCR's project

groundwork was, by and large, insufficient (see paragraph 3.55). The Croatian government is itself making a significant effort towards reconstruction in the region and is seeking to give returning Croats priority over returnees of Serb origin.

### Sectoral distribution

#### *Housing and refugee return*

4.8. The return of refugees to Bosnia is one of the main priorities of the EU programmes. Under these circumstances the impact of housing repair measures cannot be assessed solely in terms of the extent and quality of the repairs: their effect on refugee return must also be taken into account. ECHO has tried to complement the action taken by DG IA and has focused its own intervention on internally displaced persons and those directly affected by the war.

4.9. According to the UNHCR, refugee return was much less than expected, in both 1996 and 1997. In 1996 some 88 000 refugees returned, as against a target of 200 000, and in 1997 106 000 refugees returned, compared with forecasts of 200 000. Refugees' plans to return are still significantly affected by the continuing political and security problems within the country, as well as the slowness of the reconstruction process<sup>(47)</sup>. Moreover, the return of the most highly-qualified people is the most difficult to organize and this is delaying economic recovery still further.

4.10. The cost of the damage in the housing sector has been estimated at 4 000 Mio USD<sup>(48)</sup>. Approximately half of the 1,3 Mio homes, 80 % of which were privately owned, suffered war damage. Commission funding represented approximately 32 % of all donor commitments, but only 8 % of donor disbursements for the 1996-97 period.

<sup>(45)</sup> The UNHCR forecast for this canton in 1997 was 27 000 people returning, which is 17% of the forecast for the entire Federation.

<sup>(46)</sup> According to the UNHCR there were still 220 000 refugees who had originated in Bosnia-Herzegovina and were living in Germany without the prospect of permanent accommodation at the end of 1997.

<sup>(47)</sup> At the end of 1997 UNHCR estimated that the number of refugees remaining in EU Member States was around 263 000 (consolidated appeal for 1998; repatriation and return operation 1998). In addition to this there were 335 000 refugees in other former Yugoslav republics and 800 000 persons displaced within Bosnia.

<sup>(48)</sup> World Bank Reconstruction Program: sectoral programs and priorities, April 1996.

4.11. Housing reconstruction under the first tranche of the EAP started just before winter 1996-97. At that time the Commission was uncertain whether to supply materials or carry out entire projects. As a rule other housing reconstruction projects (non-EAP) did not get under way until the second half of 1997, firstly, because of the delays inherent in the Community procedures for examining project proposals (see paragraph 3.35) and, secondly, because the NGOs found it difficult to identify beneficiaries and housing which met the Dayton criteria for refugee return and were acceptable to the local authorities.

4.12. By 31 December 1997 the Commission had funded repairs to approximately 10 700 individual houses, of which 6 300 had been completed. This represents 2 % of the total repairs to be carried out. In the interests of effectiveness, the work had, until that date, systematically concentrated on the least damaged homes, because they were the least expensive to repair. Table 7 shows the main private-housing repair schemes contracted out by the Commission.

TABLE 7

Implementation of individual housing repair projects (1996-1997)  
(excluding communal areas of buildings)

Project start between	Commission department	Project value (Mio ECU)	Number of homes rehabilitated at 31.12.1997	Number of homes in course of rehabilitation at 31.12.1997	Total number of homes
January and June 1996	DG I/A	—	—	—	—
	ECHO	3,2	1 785	0	1 785
July and December 1996	DG I/A	13,2	1 410	325	1 735
	ECHO	2,0	469	0	469
January and June 1997	DG I/A	14,0	1 089	1 182	2 271
	ECHO	6,6	73	840	913
July and December 1997	DG I/A	14,4	1 422	620	2 042
	ECHO	14,0	81	1 386	1 467
Total	DG I/A	41,6	3 921	2 127	6 048
	ECHO	25,8	2 408	2 226	4 634
	Commission	67,4	6 329	4 353	10 682

Source: Court of Auditors

4.13. In a number of cases it was not possible to carry out all the housing repairs that were provided for in the contracts. For example:

- a) in Gorazde<sup>(49)</sup> 400 homes were to be repaired under the EAP at a total cost of 2,33 Mio ECU. Only 42

were finished. Work on a further 334 homes was abandoned, leaving two thirds of these houses uninhabitable. No start was made on the repairs to the remaining 24 homes. The NGO responsible for the project over-paid the construction company by 787 000 DM, which has never been recovered by the Commission. These problems occurred even though the project was supervised by three agencies: the procurement agency, the NGO responsible for

<sup>(49)</sup> Enclave of the Federation in eastern Bosnia.

coordinating the work and the consultants responsible for monitoring the EAP;

- b) at Bosanska Krupa (Una Sana) a UNHCR-implemented project for the total repair of 400 houses was converted into a project for the repair of 500 roofs, as the municipality had given the UNHCR an undertaking that it would carry out the rest of the work. In the end only 435 roofs were repaired and the municipality did not respect its undertaking, with the result that in September 1997 half the houses were still unoccupied because they were uninhabitable;
- c) at Stolac (Mostar region) 100 houses were to be repaired (0,9 Mio ECU) to house Muslim refugees. Only 66 houses were repaired and around 20 of them were occupied in September 1997. There was, in fact, strong Croatian opposition to the return of these refugees and two of the repaired houses were set on fire;
- d) in eastern Slavonia the UNHCR received 2,7 Mio ECU in October 1996 for the rebuilding of 600 houses in two pilot villages (Antunovac and Ernestinovo) on the front-line. As of September 1997 none of the homes had been repaired and only 20 proposals had been approved by the Croatian authorities. It was only in October 1997 that the UNHCR advised the Commission of the difficulties it was experiencing and proposed to cut the number of dwellings for repair to 325, so as to release funds for the renovation of public buildings (schools, health centres, etc).

4.14. In the longer term the 67,4 Mio ECU mobilised by the Commission for housing (see *Table 7*) is to benefit some 10 000 refugees who fled to EU Member States, as well as 37 500 other beneficiaries (displaced persons, mainly). At the end of 1997 the Court estimated the number of people who had been rehoused in this way to be around 5 000 refugees and 22 500 displaced persons. In 1996 most of the beneficiaries of the reconstruction work were displaced persons, because the Commission had not adopted any housing programme that gave priority to refugees. Since then, and for most of the projects funded in 1997, the Commission has tried to ensure that 50 % of beneficiary households are refugees returning from EU Member States, but it has not systematically included this requirement in the main

contracts for projects. The Commission adopted this 50 % limit so as not to create resentment among the people who remained in Bosnia during the war.

4.15. There were two possible solutions to the problem of which refugees should benefit through Commission reconstruction projects:

- a) to identify refugees who wanted to return provided that accommodation was available for them and only then to carry out the repairs;
- b) to carry out reconstruction work in areas where refugees were likely to resettle and to allocate the homes to families that had already returned to Bosnia, thus encouraging those remaining in host countries to return.

In practice following the first approach was difficult, because of the time needed for identify refugees in Member States. Although the second approach has been widely followed, it cannot be established that the rehabilitation of housing stock was a cause of the refugees' return.

4.16. In view of the very large volume of essential repairs and the limited resources available, the number of homes repaired would have been much greater if the most disadvantaged people (usually people who had remained in Bosnia during the war) had been given priority when the funds were allocated. It would then have been necessary to combine this system of grants with a system of subsidised loans for the better-off, who, as a general rule, were refugees.

4.17. Policy in this area has, in fact, remained unclear. Not until October 1997 was a loan scheme developed in cooperation with the KfW. Whereas the beneficiaries of Commission projects undertaken through UNHCR were selected on the basis of economic and social criteria<sup>(50)</sup>, those criteria were not normally included in the contracts concluded directly between the Commission and NGOs, with the result that the terms on which beneficiaries were selected varied widely from one NGO to another.

4.18. The final impact of these projects has been lower than the number of repairs would suggest: many of the renovated houses have remained unoccupied. For example, 40 % of the houses renovated during the 1996 project in Una Sana were still unoccupied in August 1997. In many cases they remained unoccupied because the repair work was carried out in isolation, instead of

<sup>(50)</sup> Households with at least one handicapped person or one person over the age of 65; average monthly income less than 25 DM.

forming part of an integrated project that encompassed social infrastructure, water and electricity supply and job creation.

4.19. Most of the building repair projects for buildings under multiple occupation were confined to the repair of roofs, windows and the communal areas of buildings. By the end of December 1997 some 6 270 apartments (75 % of them in Sarajevo) had been repaired in this way under the 1996 and 1997 budgets. Most of the beneficiaries were already living in the apartments in question. Whereas in Bosnia repairs to the private areas of buildings had barely begun by the end of 1997, because of problems of establishing ownership, in Vukovar, on the other hand, repair work covered the complete renovation of two buildings containing a total of 142 individual apartments and was expected to be completed by the end of 1997 (cost 3,4 Mio ECU). In Vukovar the Commission funded a joint committee for housing allocation, which significantly improved transparency.

#### *Education*

4.20. Half the schools were seriously damaged or destroyed as a result of the war and there has been no regular education budget since the 1991-92 academic year. The schools that remained open were short of teachers, basic furniture and educational materials. In 1996-97 Commission commitments and disbursements amounted to 29 % and 21 % of total donor commitments and disbursements.

4.21. Under the EAP 2 Mio ECU was allocated to the education sector, for the supply of furniture to schools. The programme covered about 20 % of the Federation's primary school needs. As the furniture was supplied by a local enterprise, the programme provided some impetus to the restarting of the economy in the country. However the furniture was of poor quality and the criteria used to designate the beneficiary schools were not transparent. The DG IA funds would have been better spent if the schools repaired by ECHO had been given priority when the funds were allocated, as the choice of them was justified.

4.22. The school rehabilitation projects handled by ECHO have had a significant impact, in that approximately 100 schools had been repaired under the 1996 and 1997 programmes by the end of 1997.

Nevertheless, many schools were still suffering from shortages of teaching staff and educational materials at that date. While these problems are outside ECHO's remit, it might have been expected that DG IA would provide technical assistance to support and reform the school system.

#### *Health*

4.23. Between 35 % and 50 % of health infrastructure was affected by the war, depending on the region, and the medical services lost around half their staff. Shortages of drugs and basic supplies were still a threat at the end of 1997. In 1996-97 Commission commitments and disbursements for this sector represented 15 % and 20 % respectively of aid from all donors.

4.24. Despite its experience of health sector reforms in central and eastern Europe the Commission has started very few such projects in Bosnia. The low level of funding is partly because it has tried to work in partnership with the Federal Ministry of Health, whose efficiency is undermined by ethnic conflicts within the Ministry. 6 Mio ECU was allocated for the purchase of medical equipment and ambulances under the EAP in 1996, but the Ministry drew up distribution lists without consulting hospitals and clinics and in consequence some of the supplies were not suitable for local requirements<sup>(51)</sup>. Moreover, equipment was held in warehouses in Sarajevo for long periods, because of disagreements within the Ministry. At the end of March 1997 equipment to a value of some 2,5 Mio ECU was still in store in Sarajevo, even though distribution had started in December 1996. The Ministry was unable to provide the Commission with comprehensive distribution lists. As was the case with the education sector, given that ECHO had had experience of the health sector during the war, coordination between Commission departments would have been useful in ensuring that equipment, in particular, was channelled to the health facilities that had been repaired by ECHO.

4.25. The Commission was to equip a laboratory for quality control of medicines as part of a 2 Mio ECU project funded from the remaining EAP funds. However, the Ministry could not decide the site of the laboratory (whether it should be in a Croat or Muslim area) and it

<sup>(51)</sup> Several ambulances were allocated to hospitals that had no need of them.



was a year before the decision on its location was taken.

4.26. ECHO aid has had a significant impact through a wide-ranging programme of repairing around 70 dispensaries. However, the health system is still in a state of crisis and there is a need for reform. Most of the expenditure is still being met through humanitarian aid, for which ECHO is the largest donor. Efficient coordination between Commission departments would have allowed DG IA to fund technical assistance as a contribution to the reform of the health sector.

#### *Energy (electricity and gas)*

4.27. Half the generating capacity and 60 % of the grid were damaged during the war and a large part of the distribution network was destroyed. The gas pipelines also deteriorated and 54 000 unsafe and illegal connections were made in Sarajevo. In 1996-97 Commission commitments and disbursements represented 22 % and 13 % respectively of all donor aid.

4.28. The energy sector is the largest EAP component, but its effectiveness has been considerably reduced, because the Commission simply supplied equipment and spare parts without ensuring that they were installed. Various shortcomings were noted during on-the-spot visits:

- a) the local electricity companies did not have the necessary resources and in consequence some equipment remained unused. For example, 0,9 Mio ECU was earmarked for the repair of transformers and high-voltage lines to provide the electricity supply for 10 000 people in the Turbe region of Central Bosnia. The equipment was not installed, however, and the electricity supply was barely sufficient for lighting;
  - b) the supply of equipment was rarely an integral part of plans for repairing the supply networks. Deliveries were often late, or beneficiary authorities were not informed when they were to take place. For example, the main contract for the electricity sector (4,9 Mio ECU) was signed in September 1996 and stated that deliveries were to be completed by December 1996 (see paragraph 3.40(h)). However, only 20 % of deliveries had been made by that date and they were not finally completed until June 1997. Supplies of piping (0,265 Mio ECU) for repairs to the gas network in Sarajevo were delayed, with the result that pipes from other sources were used instead;
  - c) the Commission relied on the central electricity company to determine the specifications for equipment to be supplied to its local branches. However, since the latter were not properly consulted, even though they were responsible for the repairs, some ultimately received only part of the equipment that they needed;
  - d) although a contract had been concluded with a consultant (see paragraph 3.52), the Commission did not systematically monitor the equipment delivered and, as of April 1997, it did not have an inventory of the equipment that had actually been installed.
- 4.29. The effects of the EAP in the energy sector were mixed:
- a) the EAP contributed towards the restoration of a basic level of generating capacity in the Muslim enclave of Gorazde. Six transformers were supplied but, as of April 1997, a further 40 were still needed in order to satisfy the demand for electricity;
  - b) equipment and spare parts were supplied to repair the generators in the two largest thermal power stations in the Federation, at Kakanj and Tuzla (2,2 Mio ECU). The EAP provided some 12 % of the total financing. The World Bank decided against providing funds for the project in Tuzla, however, as the economic justification for the investment was questionable because of the size and age of the unit;
  - c) in 1996 the EAP contributed to the recovery of coal production by providing some 25 % of all donor financing for the mines that supply the power stations. Over the period December 1996 — March 1997 the Tuzla mining company's lignite production rose from 133 000 tonnes to 193 000 tonnes per month (a 45 % increase);
  - d) aid was also granted for the repair of the gas supply network for 4 000 households in the Novi Grad quarter of Sarajevo. The project included the supply of meters, metering being an essential part of billing for consumption and ensuring that the distributor is financially viable. However, the project also covered the provision, free of charge, of 4 000 cookers and 4 000 radiators (0,9 Mio ECU), even though the World Bank estimated that most households could afford their own appliances.

4.30. Apart from the EAP and ECHO intervention, Commission funding has had very limited impact on the energy sector. Although an amount of 13,5 Mio ECU was committed in the electricity sector (budget heading B7-5 4 1) in December 1996, the call for tenders was not issued until November 1997, because of the size of the project, the slowness of Commission procedures and the difficulty of dealing with three different distribution companies<sup>(52)</sup>. The additional 7 Mio ECU reallocated to this project from the EAP in November 1996 had not been mobilised either. For this reason no part of the 1997 programme had begun by the end of 1997.

4.31. In the case of this 13,5 Mio ECU programme, the Commission's decision to allocate 4,5 Mio ECU to each of the three *Elektropriverda* does not meet the provisions of Annex 9 to the Dayton agreement, which envisaged the reunification of the public utilities which, in the electricity, water, transport and telecommunications sectors, were split between the three ethnic groups. As a result of opposition from the local authorities the donor community has only been able to implement this annex gradually. In the case of the electricity reconstruction programme work on a strategic survey of the sector did not begin until October 1997, even though the donors agreed in November 1996 that such a study should be carried out. It is particularly important for the reconstruction activities, in order to identify postwar changes in the pattern of demand before any further investment is undertaken.

#### Transport

#### General

4.32. In January 1996 28 % of the main road network was in need of immediate repair. None of the ten bridges between Bosnia and Croatia were passable and a further 70 important bridges in the interior of the country had been seriously damaged or destroyed. Public transport functioned with difficulty and Sarajevo airport was closed to civilian flights, because of the condition of the runway, terminal and control tower. In 1996-97 Commission commitments and disbursements represented 26 % and 15 % of all donor commitments and disbursements.

<sup>(52)</sup> Each of the ethnic communities in Bosnia has its own electricity supply company (*Elektropriverda*).

4.33. Transport is the second largest sector for the Commission reconstruction appropriations. The needs of this sector are enormous and capable of absorbing a substantial volume of funds. It was not possible to evaluate the indirect effect of this intervention on refugees' intentions of returning.

#### Urban transport

4.34. The supply of buses and the repair of tramlines in Sarajevo were the most visible components of the EAP. By the end of the war there were only 20 operational buses in Sarajevo, compared with 300 in 1991. The supply of 33 buses under the EAP made it possible to reopen 75 % of the network, albeit with a reduced service. Nevertheless, as of April 1997, the Sarajevo public transport company still did not have the funds that it needed in order to continue to operate services.

#### Bridges

4.35. The Bosanski Samac bridge across the Sava which separates Croatia and Bosnia was to be repaired as part of the 1996 reconstruction programme (10 Mio ECU). This is a high-priority project for Bosnia because the bridge is a vital part of the link between Budapest and the Adriatic via Croatia and Sarajevo. The financing decision was taken in December 1996 and the project duration was to be 18 months. At the end of 1997 the repair work had not started. Work on clearing mines from the area did not, in fact, begin until August 1997 as, following a disagreement over the choice of the enterprise that was to design the new bridge, the contract was not signed until August 1997. As a result of the delays, the project completion date has been deferred by 18 months (end-1999). According to a consultants' report dated December 1997, the project cost was to be increased from 10 to 11,5 Mio ECU, because the foundations suffered erosion following the destruction of the bridge. If the Commission again delays its decision this particularly important link will not be opened until after the year 2000.

#### Roads

4.36. The main project (3 Mio ECU) under the roads part of the 1996 reconstruction programme was the restoration of 23 km of the northern corridor linking the eastern and western parts of Republika Srpska. The

Serbian authorities regard this as a priority project, because it enables traffic to cross from one area to the other without passing through the Federation. Although a decision was taken in November 1996, the call for tenders for the works was not issued until November 1997.

4.37. The 1997 roads programme (5,45 Mio ECU) also included two other projects concerning Republika Srpska. The first is a 1,35 Mio ECU project to rebuild the road between Pale and Lukavica<sup>(53)</sup>, the seat of the Serb representative in the triumvirate presidency of the State of Bosnia-Herzegovina. The second, a 1,35 Mio ECU project for the resurfacing of another road in the east of Republika Srpska (from Ustipraca to Foca) would make it possible to avoid the main road which passes through the Muslim enclave of Gorazde. The Commission was considering the future of these two suspended projects at the end of 1997.

4.38. Road maintenance equipment was supplied to 18 maintenance units throughout the country under the EAP. The supplies had only limited impact, however, because of the poor quality of the Ministry of Transport's technical specifications for the equipment and the very limited operating budget available to the maintenance units. As an example, the capacity of the mobile asphalt plants (five for 347 170 ECU) and rollers (five for 332 665 ECU) was unsuitable for the volume of resurfacing work that had to be undertaken. Moreover, a mobile road laboratory purchased for Republika Srpska (107 459 ECU) was still unused in April 1997, because the recipient had neither the necessary means of transport nor the requisite know-how.

#### Civil aviation

4.39. In the civil aviation subsector the Commission contributed to the refurbishment of the passenger terminal at Sarajevo airport (6,8 Mio ECU) as part of a project for the repair of the entire airport, in which most Western donors have been involved since mid-1996.

4.40. Although IMG submitted an estimate in November 1996, the first emergency work did not start until October 1997. Due to the winter the main work couldn't start before April 1998. Donor coordination on

this project has been insufficient to ensure that the rehabilitation of the airport is designed to be a single, jointly-funded operation.

#### *Water and domestic waste management*

4.41. At the end of 1995 it was estimated that the leaks in 60 % of the water supply network were so serious that normal supply was not possible. There had been significant deterioration of the sewers and waste collection services had stopped. In 1996-97 Commission commitments and disbursements in this sector represented 23 % and 13 % of all donor commitments and disbursements.

4.42. The EAP has had a limited impact in the water supply sector. While the programme did, however, supply equipment and materials to 62 of the 69 municipalities in the Federation, the Commission was unable to influence distribution plans and ensure that deliveries were made as foreseen. In actual fact, the supplies were in part distributed on an arbitrary, political basis, some of the largest beneficiaries being in the Croatian area, where the need was least acute. In addition, the equipment supplied was not always suitable for local needs, because the technology was significantly more advanced than that of the equipment used before the war. For example, the donors supplied modern leak-detecting equipment far in excess of Bosnia's requirements and as a result most of it has remained unused. Local water companies often lacked the resources to install and use the equipment supplied and needed to be restructured so that they could carry out the repair and maintenance programmes.

4.43. Apart from the EAP and humanitarian aid (6 Mio ECU) EU reconstruction aid (20,6 Mio ECU) has contributed relatively little towards improving water supplies, because priority was given to drafting and preparing calls for tenders for projects with a scope that exceeded the emergency repair framework. In the meantime the water supply networks in some areas, such as Sarajevo, have continued to deteriorate, with leakage rates sometimes as high as 70 %. However, a firm base for action in 1998 was being established.

4.44. Neither the Commission nor any other donor has undertaken any large-scale operations in the area of

<sup>(53)</sup> A suburb of Sarajevo in the Serb entity.

waste management, and there are serious risks to public health. ECHO provided funds for a waste disposal site in Una Sana canton (0,7 Mio ECU), but work started without the agreement of the local authorities; the facility was poorly constructed and never used. ECHO is finding it difficult to require the NGOs to undertake the requisite corrective action, because its operational contracts are unsuited to rehabilitation projects. A needs assessment for Sarajevo was funded in the first quarter of 1997 and was to be followed by supplies of equipment in December 1997.

#### *Telecommunications*

4.45. A study by the EBRD in 1996 estimated the total war damage in the telecommunications sector at 176 Mio ECU<sup>(54)</sup>. The donors made no progress in this sector in 1996, because of the opposing interests of the two entities. In 1996-97 Commission commitments and disbursements represented 33 % and 16 % of the international aid. However, donor commitments actually amounted to only 17 % (30 Mio ECU) of the forecasts for the period.

4.46. An important breakthrough was, however, achieved in September 1997 when 4,7 Mio ECU was mobilised from 1996 appropriations and was used as funding for the restoration of telephone links between the entities (albeit with a very low capacity of 30 lines, which was saturated by the end of 1997). It was not possible to achieve the objective of increasing the number of connections between the entities to 90 lines before the end of 1997 because of security problems in Republika Srpska.

4.47. The Federation was granted 4 Mio ECU of aid under the 1996 budget for the purpose of restoring the telephone network in the areas to which refugees were returning, but the aid had still not been disbursed at the end of 1997. The Federation opposed it, because it was dissatisfied with the way in which the links between the two entities had been restored.

4.48. The progress made in restoring inter-entity telephone connections is partly due to the very strong political pressure brought to bear by the Commission and relayed through the other donors. This pressure is strikingly different from the attitude adopted in other sectors and also brought about the signing, by the three

telecommunications services, of a 'Memorandum of agreed principle' which is intended to be the precursor of a joint law on telecommunications. The three companies are also participating in a joint training programme, funded by the Commission (0,07 Mio ECU), which was launched in September 1997.

#### *Agriculture*

4.49. Before the war 40 % of the population of Bosnia-Herzegovina was wholly or partly dependent on agriculture. Around 80 % of machinery was destroyed during the war and 70 % of the livestock slaughtered<sup>(55)</sup>. Donors (including the Commission) have nevertheless made only a modest contribution in this sector<sup>(56)</sup> and agriculture was not included in the integrated programmes. In 1996-97 Commission commitments and disbursements thus amounted to 24 % and 20 % of all donor commitments and disbursements.

4.50. According to reports from the monitoring office engaged by the Commission, items supplied under the EAP included:

- a) 1 300 motor cultivators<sup>(57)</sup> in the three regions of the Federation (4,6 Mio ECU);
- b) fertilizers and pesticides for the two entities (2,1 Mio ECU);
- c) equipment for the dairy sector in the Federation (0,4 Mio ECU).

4.51. These items were distributed too late for them to have any impact in 1996. Their utility was subsequently reduced when a significant proportion of the products proved to be unsuitable for the local conditions. For example, the smaller motor cultivators (5—7 kW) were not powerful enough for the mountainous terrain to be found in two of the three regions — Gorazde and Mostar. On the other hand, the capacity of most of the milk-refrigeration equipment far outstripped the potential output of the farms in the region. Lastly, in the main beneficiary region (Tuzla) the fertilizers and pesticides that should have been distributed to farms free of charge

<sup>(54)</sup> 220 Mio USD.

<sup>(55)</sup> Source: Bosnia-Herzegovina reconstruction program: sectoral programs and priorities. Prepared by World Bank and European Commission, April 1997.

<sup>(56)</sup> Donors committed only 53 % of the funds forecast in this sector in 1996-97.

<sup>(57)</sup> This aid corresponded to approximately 5 % of national requirements for this type of equipment. Within the same framework the World Bank funded 7,5 % of requirements.

were, in fact, sold and the proceeds of these sales could not be audited.

4.52. The main EU aid apart from the EAP was a 3,0 Mio ECU import programme accompanied by a programme of technical assistance for the Una Sana (Federation) and Banja Luka (Republika Srpska) regions. The project proposal was submitted in November 1996, but the discussions with the NGO concerned were not concluded until May 1997 and the equipment (essentially 60 tractors and trailers) was only delivered between mid-September and mid-October 1997. It thus arrived too late for the 1996-97 agricultural season. However, farm equipment user associations involving 440 local farmers have been set up under the technical assistance arrangements, as a mechanism for hiring out the tractors and other machinery to farmers in 1998.

4.53. There was a significant increase in operations during the second half of 1997, when the Commission arranged for the importation of 560 cattle into the same two regions. The first consignments were delivered at the end of September 1997 and in December 1997 5 000 sheep were distributed in central Bosnia (600 000 ECU).

#### *Private sector development and economic reintegration*

4.54. Despite an unemployment rate of around 60 % (which is tempered somewhat by the black economy)<sup>(58)</sup> and the need for the country's economy to move from a socialist system to a market economy, the Commission has had only a limited role in this area and has not adopted a clear strategy for future action. In 1996-97 Commission commitments and disbursements represented 13 % and 7 % of total international aid.

4.55. At the end of 1997 the Commission's two largest projects, namely an economic recovery programme (16,5 Mio ECU) and an EU investment guarantee trust fund for Bosnia-Herzegovina (10,5 Mio ECU), had barely started. By the end of 1997 the Fund had still not provided any guarantees. In the case of guarantees the budgetary technique employed makes it possible to provide cover without mobilizing funds immediately. In this instance it

would have been possible for the Commission to devote 10,5 Mio ECU to projects without foregoing its participation in the guarantee fund.

4.56. Another project that was supported involved the Zica Wire Drawing Factory in Sarajevo, which received an investment subsidy of 1 Mio ECU. The enterprise manufactures cables for the construction industry. This was the only Commission initiative in favour of a large industrial enterprise. The Commission hoped that this initiative would stimulate employment. It has remained a one-off operation.

#### *Support for public administration*

4.57. Donors faced a difficult choice in the area of public administration, due to the large number of new institutions at State, entity and canton level and the lack of training for new and existing civil servants. Although support in this area may put the representatives of the local authorities in a better position to participate in the implementation of the reconstruction programme, the Commission has devoted a relatively small amount to this area, concentrating on the institutions at State, rather than entity and canton level.

4.58. The Commission's main action in this area has been the establishment of a Customs and Fiscal Assistance Office (CAFAO) which reports to DG XXI (see paragraph 3.23). CAFAO made a very significant impact through the creation of and subsequent support for a Federation Customs service, which began operations in April 1996. Customs duties provide approximately 80 % of the Federation's budgetary resources<sup>(59)</sup>. It is unlikely that the Customs service would be able to function without CAFAO's intervention, partly because of ethnic rivalries. Since the beginning of 1997 assistance has also been provided for the Republika Srpska Customs service. CAFAO, which is investigating fraud in the two entities, forwarded to the Office of the High Representative a number of files on diversion of funds totalling 53 Mio USD in 1997. As of the beginning of 1998 the diverted fiscal resources had not been recovered. In addition 1 150 customs officials in the two entities are taking part in a training programme.

4.59. CAFAO drafted a temporary Customs law which provides for a unified customs territory in Bosnia-Herzegovina, but it is not yet in force. The

<sup>(58)</sup>The Economist Intelligence Unit, Country report, third quarter 1997.

<sup>(59)</sup>In 1997 Customs duties were expected to provide 500 Mio DM of the Federation's total budget of 615 Mio DM.

Commission also funded the drafting of foreign trade and investment legislation, which was adopted in June 1997. It has also provided institutional support for the newly-created central bank (1 Mio ECU), as well as the Ombudsman (0,75 Mio ECU) and statistical services (0,1 Mio ECU).

## 5. CONCLUSION

5.1. Since the political stability of the Balkans is a matter of serious concern for the European Union, the Council and Parliament have placed 1 000 Mio ECU at the Commission's disposal for the period 1996-99, thus ensuring that the latter is among the leading providers of funds for the process of reconstruction in former Yugoslavia. This is in addition to the humanitarian aid granted by the budgetary authority each year, which amounted to 315 Mio ECU between the beginning of 1996 and the end of 1997.

5.2. When the peace agreements were signed in December 1995 the Commission emphasised the importance of rapid reconstruction measures and the necessity of coordinating these measures with the aid from other providers of funds in order to lend support to the establishment of new institutions which would facilitate reconciliation between the three ethnic communities in Bosnia-Herzegovina (see footnote <sup>(15)</sup>). It therefore advocated that each donor deploy adequate resources in the areas in which it had the most experience and expertise.

5.3. Although the political level responded to the urgency of the situation by adopting the decisions on aid from the European Union very quickly, the actual mobilisation of the aid suffered a number of organisational setbacks, both technical and administrative, which were not experienced to the same extent by most of the other donors. Thus at the end of 1997 mobilisation of aid from the European Union was still slow (see paragraph 3.30), the problem of the refugees who had found shelter in a number of Member States had still not been satisfactorily resolved for those States (see paragraph 3.8) and, with a few rare exceptions, the action taken by the European Union still had a very low profile (see paragraph 4.34). Moreover, delays in implementing the reconstruction measures are particularly apparent in Republika Srpska, due to a series of interruptions to the aid programme for that entity (see paragraphs 1.3 and 4.1).

5.4. Despite its clear declarations of intent (see paragraphs 3.1 and 3.3), the Commission did not succeed

in deploying sufficient human resources to the task of reconstruction in former Yugoslavia, neither at its headquarters in Brussels nor in the areas that were under reconstruction (see paragraphs 3.13 and 3.14). In this connection it derived little benefit from the experience acquired in Mostar, which some months earlier had demonstrated the importance of having a sufficient number of qualified staff on the ground <sup>(60)</sup>. Moreover DG IA drew little benefit from the experience acquired by ECHO (with which it cooperated at arm's length) (see paragraphs 3.8 and 3.11), nor (from the reconstruction angle) from the work of the international management group (IMG) which had been operating in Bosnia-Herzegovina since 1993 (see paragraph 3.34). Similarly, coordination with the Office of the High Representative (OHR) in the country was, in practice, too slight for the European Union to be able to occupy the position which it should have held, given the volume of funds which it had decided to make available (see paragraph 3.18).

5.5. The Commission did not develop a practical sectoral implementation programme for ensuring that any coordinated action would be taken in accordance with priorities which took into account the areas where its services already had experience (see paragraph 3.3). As a result aid was mobilised, but was dissipated before it gathered the momentum needed for it to achieve significant sectoral impact (see paragraph 3.4). In particular, such a strategy should reflect the importance attached to the refugee-return question. In this respect more concrete collaboration between Commission staff and organisations in Member States, UNHCR representatives in each country and the municipal authorities in the areas affected by refugee return would have been desirable.

5.6. The EAP (Supply) was not adequately prepared, the shortcomings of the authorities in the Federation of Bosnia-Herzegovina and in Republika Srpska were not recognised and the Commission was over-hasty in assigning responsibility for the implementation of the programme to procurement agencies which were not in a position to verify, on the ground, whether supplies had actually been distributed to beneficiaries. All these factors resulted in the breaking-off of the programme in November 1996, after which it was converted to projects of the conventional type (see paragraph 3.5), thus causing new hold-ups in the implementation process. In the case of the non-EAP projects the unsuitability of the existing Regulations and the time taken to adopt the basic

<sup>(60)</sup> See Court of Auditors' Special Report No 2/96, paragraphs 92 and 93.

regulations required for new budget headings to be mobilised (see *Annex 1*, paragraph 3) were not the only causes of delay. The administrative delays inherent in the Commission's internal decision-taking procedures are inadmissible in an emergency context. Furthermore the Commission departments did not systematically follow the procedures for emergency aid, even though reconstruction projects were difficult to implement using traditional procedures for economic restructuring (see paragraphs 3.33 — 3.35).

5.7. Implementing housing repair projects through the UNHCR is not very satisfactory (see paragraph 3.55). It leads to additional delays at the approval stage, without guaranteeing that the works will be better executed by the NGOs to which they are subcontracted. The procedures followed by the UNHCR in implementing projects and the shortcomings in its accounting procedures do not, in fact, allow the Commission to keep these operations under review. If, in this context, it is considered essential for the Commission to contribute funds to the UNHCR it would be administratively more efficient to make a global contribution in response to its appeals for funds, because the results obtained would not be any different. The specific audit requested by the Commission is, in fact, an irrelevance, because of the fungibility of UNHCR finance <sup>(61)</sup>.

5.8. The number of refugees returning continued to be much lower than expected, in both 1996 and 1997 (see paragraph 4.9). In this context the sometimes discriminatory policies of local authorities, insecurity in the country (see paragraph 4.9) and the way in which housing and infrastructure repair works were carried out (see paragraph 4.11) were severe constraints. By the end of 1997 the homes of some 6 300 refugees and displaced persons had been repaired through the Commission — a very modest achievement (see paragraph 4.12). In many cases homes remained unoccupied even after they had been repaired, because the work had not been undertaken within the integrated framework of projects which also included social infrastructure, water and electricity supply and job creation (see paragraph 3.11).

5.9. In the areas of health and education ECHO's impact was fairly marked. On the other hand, DG IA did not mobilise the support needed to ensure that the government departments responsible for the management

of these areas functioned efficiently. Moreover the action taken by ECHO and DG IA was insufficiently coordinated (see paragraphs 4.21, 4.22 and 4.26). In the energy sector EAP supplies were not adequately monitored (see paragraph 4.28) and the effectiveness of the aid varied. Apart from a substantial improvement in bus and tram services in the town of Sarajevo (see paragraph 4.34) Commission support for the transport sector had little impact, because of the serious problems encountered by the projects (see paragraphs 4.35 — 4.40). Lastly, progress in the areas of public administration and economic reform was modest (3.7, 4.54 — 4.57).

5.10. Two years after the Dayton and Paris agreements the reconstruction aid mobilised by the EU continues to fall short of its declared aims. This is partly due to the problematical environment in former Yugoslavia, but it is also a consequence of the Commission's inability to deploy sufficient human resources, as well as the poor quality of the cooperation between Commission departments.

5.11. EU aid was scattered over an excessive number of sectors, as a result of very limited practical coordination with the main providers of funds and the Office of the High Representative. This phenomenon was further magnified by a desire to satisfy requests from the central authorities in the entities of Bosnia-Herzegovina asking for the Community aid to be distributed among the main structures in the entities. Under these circumstances it is important for the Commission to decentralise management of its aid effort to the delegations and to focus it on a smaller number of sectors, in order to respond better to the urgent needs of certain regions and communities that are especially affected by the question of the peaceful return of refugees.

5.12. Finally, it is important for the Commission to establish its credibility with the authorities in these areas by ensuring that any support which it provides is adequately publicised. Otherwise there is a danger that the beneficiary populations will be unaware of its presence in the area. A first step in this direction could be taken by stating clearly and visibly that Commission measures are funded by the European Union and not just by ECHO, PHARE, CAFAO, EAP or Obnova <sup>(62)</sup>.

<sup>(61)</sup> See Annual report concerning the financial year 1995, OJ C 340, 12.11.1996, paragraphs 11.39 and 11.40.

<sup>(62)</sup> Obnova — Programme for reconstruction in Bosnia, Croatia, Serbia, Montenegro and FYROM.

This report was adopted by the Court of Auditors in Luxembourg at its meeting of 7 May 1998.

*For the Court of Auditors*

Bernhard FRIEDMANN

*President*

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## ANNEX 1

## SOURCES OF FUNDING FOR EU AID FOR RECONSTRUCTION IN FORMER YUGOSLAVIA

1. EU aid comes from two main sources:
  - (a) 600 Mio ECU from the PHARE programme, 400 Mio ECU of which was allocated for reconstruction in the areas of the country that had been devastated by war and 200 Mio ECU for programmes to assist the transition to a market economy;
  - (b) 400 Mio ECU, derived from the additional margin of 475 Mio ECU under heading 4 (External action) of the 1996-1999 financial perspective which was released during the 1995 Cannes Summit.
2. These two funding sources are, in turn, governed by separate legal bases:
  - (a) with regard to the 600 Mio ECU, the Regulation governing the PHARE programme<sup>(1)</sup>, which covers general budget headings B7-5 0 0 and B7-5 4 3; Bosnia<sup>(2)</sup> and the Former Yugoslav Republic of Macedonia (FYROM) became eligible for assistance under this programme in 1996<sup>(3)</sup>;
  - (b) a Regulation covering reconstruction in Bosnia, Croatia, Serbia-Montenegro and FYROM and mobilising 400 Mio ECU (budget articles B7-5 4 1, B7-5 4 2 and B7-5 4 5)<sup>(4)</sup>. The Regulation did not enter into force until August 1996, which delayed the start of this programme (called 'Obnova').
3. The Commission gave responsibility for management of the 1 000 Mio ECU to the Directorate-General for External Relations 'Europe and the Newly Independent States' (DG IA). This aid is supplemented by humanitarian aid (budget heading B7-2 1 4) managed by another Commission department, the European Community Humanitarian Office (ECHO)<sup>(5)</sup>. Between 1992 and 1995 ECHO mobilised some 1 180 Mio ECU for humanitarian aid in the whole of former Yugoslavia and was to devote an increasing proportion of its post-war assistance to emergency rehabilitation projects.
4. A budget heading for specific measures concerning anti-personnel mines also earmarked 6,7 Mio ECU in 1996 (B7-6 1 5) and 2,4 Mio ECU in 1997 (B7-6 6 1) for measures to be carried out in former Yugoslavia. Finally, there was provision for measures to assist the Customs services (CAFAO) totalling 7,1 Mio ECU in 1996 (B7-7 0 0 2) and 8,1 Mio ECU in 1997 (B7-5 4 4).

<sup>(1)</sup> Council Regulation (EEC) No 3906/89 of 18 December 1989, OJ L 375, 23.12.1996, p. 11.

<sup>(2)</sup> Council Regulation (EC) No 753/96 of 22 April 1996, OJ L 103, 24.6.1996.

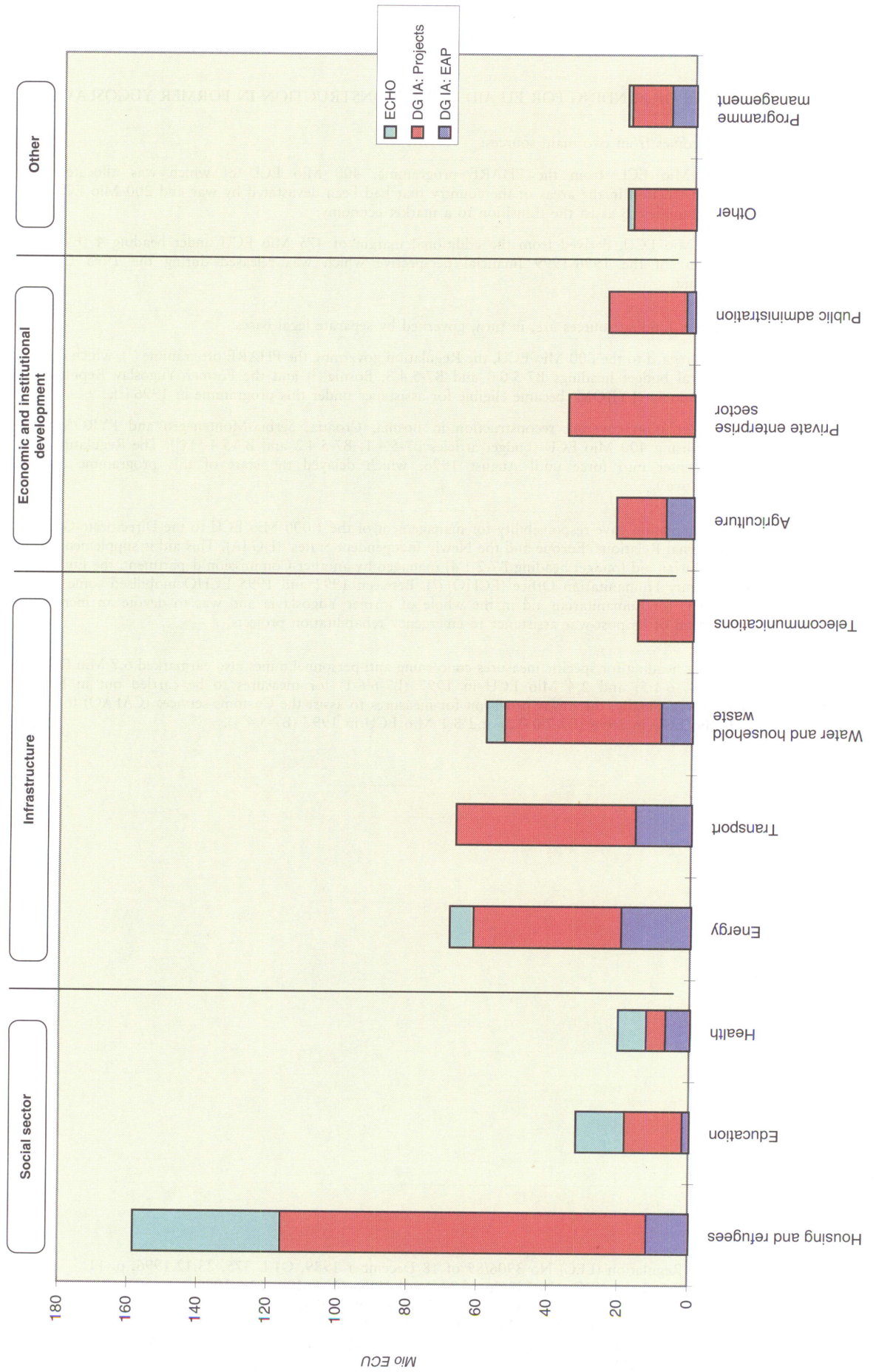
<sup>(3)</sup> Council Regulation (EC) No 463/96 of 11 March 1996, OJ L 65, 15.3.1996.

<sup>(4)</sup> Council Regulation (EC) No 1628/96 of 25 July 1996, OJ L 204, 14.8.1996.

<sup>(5)</sup> The legal base for the humanitarian aid is Council Regulation (EC) No 1257/96 of 20 June 1996, OJ L 163, 2.7.1996.

ANNEX 2-1

Allocation of aid by activity sector (commitments at 31.12.1997)



## ANNEX 2-2

## Aid for reconstruction in former Yugoslavia by activity sector at 31 December 1997

(Mio ECU)

Activity sector		Commitments	% of sector commitments	Contracts	% of sector contracts	Payments	% of total payments
Housing and refugees	DG IA: EAP	12,0		10,4		9,7	
	DG IA: Projects	104,3		56,9		25,8	
	ECHO	42,3		42,3		35,4	
	Subtotal	158,6	29,25 %	109,6	38,24 %	70,9	34,05 %
Education	DG IA: EAP	2,0		2,0		2,0	
	DG IA: Projects	16,4		2,2		2,2	
	ECHO	13,8		13,8		11,8	
	Subtotal	32,2	5,94 %	18,0	6,28 %	16,0	7,68 %
Health	DG IA: EAP	7,0		8,8		8,5	
	DG IA: Projects	5,5		0,0		0,0	
	ECHO	8,0		8,0		6,1	
	Subtotal	20,5	3,78 %	16,8	5,86 %	14,6	7,01 %
<b>Total: Social sector</b>		<b>211,3</b>	<b>38,97 %</b>	<b>144,4</b>	<b>50,38 %</b>	<b>101,5</b>	<b>48,74 %</b>
Energy	DG IA: EAP	19,8		18,6		18,5	
	DG IA: Projects	42,0		0,3		0,1	
	ECHO	6,7		6,7		4,5	
	Subtotal	68,5	12,63 %	25,6	8,93 %	23,1	11,09 %
Transport	DG IA: EAP	15,9		14,7		14,7	
	DG IA: Projects	51,0		2,8		1,6	
	ECHO	0,0		0,0		0,0	
	Subtotal	66,9	12,34 %	17,5	6,11 %	16,3	7,83 %
Water and household waste	DG IA: EAP	8,9		8,4		8,4	
	DG IA: Projects	44,5		6,7		2,4	
	ECHO	5,1		5,1		4,0	
	Subtotal	58,5	10,79 %	20,2	7,05 %	14,8	7,11 %
Telecommunications	DG IA: EAP	0,0		0,0		0,0	
	DG IA: Projects	15,8		5,8		3,8	
	ECHO	0,0		0,0		0,0	
	Subtotal	15,8	2,91 %	5,8	2,02 %	3,8	1,82 %
<b>Total: Infrastructure</b>		<b>209,7</b>	<b>38,68 %</b>	<b>69,1</b>	<b>24,11 %</b>	<b>58,0</b>	<b>27,85 %</b>
Agriculture	DG IA: EAP	7,9		7,3		7,3	
	DG IA: Projects	14,1		4,8		2,9	
	ECHO	0,0		0,0		0,0	
	Subtotal	22,0	4,06 %	12,1	4,22 %	10,2	4,90 %
Private enterprise sector	DG IA: EAP	0,0		0,0		0,0	
	DG IA: Projects	35,8		19,5		5,1	
	ECHO	0,0		1,0		0,6	
	Subtotal	35,8	6,60 %	20,5	7,15 %	5,7	2,74 %
Public administration	DG IA: EAP	2,5		2,8		2,8	
	DG IA: Projects	22,1		16,1		12,0	
	ECHO	0,0		0,0		0,0	
	Subtotal	24,6	4,54 %	18,9	6,59 %	14,8	7,11 %
<b>Total: economic and institutional development</b>		<b>82,4</b>	<b>15,20 %</b>	<b>51,5</b>	<b>17,97 %</b>	<b>30,7</b>	<b>14,74 %</b>
Other	DG IA: EAP	0,0		0,0		2,6	
	DG IA: Projects	17,7		7,7		7,6	
	ECHO	1,7		1,7		1,2	
	Subtotal	19,4	3,58 %	9,4	3,28 %	11,4	5,49 %
Programme management	DG IA: EAP	7,0		7,8		4,6	
	DG IA: Projects	11,3		3,3		1,0	
	ECHO	1,1		1,1		1,0	
	Subtotal	19,4	3,58 %	12,2	4,26 %	6,6	3,17 %
<b>Total: other</b>		<b>38,8</b>	<b>7,16 %</b>	<b>21,6</b>	<b>7,54 %</b>	<b>18,0</b>	<b>8,66 %</b>
<b>TOTAL</b>		<b>542,2</b>	<b>100,00 %</b>	<b>286,6</b>	<b>100,00 %</b>	<b>208,2</b>	<b>100,00 %</b>

## ANNEX 3

## Commission projects in the private housing sector 31.12.97

Location	Project value (Mio ECU)	Number of houses already rehabilitated	Number of houses still to be rehabilitated	Total number of houses	Number of returned EU refugees	Number of EU refugees currently returning	Total number of refugees	Other returnee beneficiaries	Other beneficiaries currently returning	Total number of other beneficiaries
<b>DG I/A</b>										
Gorazde	2,3	150	0	150	68	0	68	608	0	608
Central Bosnia	2,7	450	0	450	203	0	203	1 823	0	1 823
Central Bosnia	1	150	0	150	68	0	68	608	0	608
Una Sana	2,7	300	0	300	135	0	135	1 215	0	1 215
Odzak	1,8	360	0	360	162	0	162	1 458	0	1 458
Eastern Slavonia	2,7	0	325	325	0	146	146	0	1 316	1 316
July-Dec 96	13,2	1 410	325	1 735	635	146	781	5 711	1 316	7 027
Una Sana	3,2	543	176	719	1 225	266	1 491	1 328	504	1 832
Anvil (RS)	0,6	110	32	142	11	2	13	407	100	507
Odzak	3,3	93	347	440	60	990	1 050	60	990	1 050
Una Sana	2	198	2	200	445	5	450	445	5	450
Una Sana	0,6	47	53	100	127	143	270	85	95	180
Una Sana	0,5	42	108	150	57	146	203	132	340	472
Central Bosnia	3,8	56	464	520	95	1 170	1 265	95	1 170	1 265
Jan-June 97	14	1 089	1 182	2 271	2 020	2 722	4 742	2 552	3 204	5 756
Mostar region	3,3	827	41	868	507	14	521	2 582	166	2 748
Mostar region	2,4	253	168	421	467	437	904	508	282	790
Gorazde	0,5	97	7	104	0	0	0	443	25	468
Una Sana	0,8	103	74	177	26	12	38	388	268	656
Sarajevo-Stup	2	0	130	130	0	290	290	0	290	290
Sarajevo-Dobrinja	2	0	200	200	0	450	450	0	450	450
Vukovar	3,4	142	0	142	65	0	65	575	0	575
July-Dec 97	14,4	1 422	620	2 042	1 065	1 203	2 268	4 496	1 481	5 977
<b>DG1A Total</b>	<b>41,6</b>	<b>3 921</b>	<b>2 127</b>	<b>6 048</b>	<b>3 719</b>	<b>4 071</b>	<b>7 791</b>	<b>12 758</b>	<b>6 002</b>	<b>18 760</b>
<b>ECHO</b>										
Sarajevo	1,6	1 155	0	1 155	520	0	520	4 678	0	4 678
RS	1,6	630	0	630	284	0	284	2 552	0	2 552
Jan-June 96	3,2	1 785	0	1 785	803	0	803	7 229	0	7 229
Travnik	0,49	281	0	281	126	0	126	1 138	0	1 138
Lokve	0,077	35	0	35	16	0	16	142	0	142
Stolac	0,9	72	0	72	32	0	32	292	0	292
Kalesija	0,57	81	0	81	36	0	36	328	0	328
July-Dec 96	2,037	469	0	469	211	0	211	1 899	0	1 899
Sadba	0,6	36	0	36	16	0	16	146	0	146

Location	Project value (Mio ECU)	Number of houses already rehabilitated	Number of houses still to be rehabilitated	Total number of houses	Number of returned EU refugees	Number of EU refugees currently returning	Total number of refugees	Other returnee beneficiaries	Other beneficiaries currently returning	Total number of other beneficiaries
Novi Seher	0,162	37	0	37	17	0	17	150	0	150
Gorazde, Sarajevo	1,1	0	320		0	144	144	0	1 296	1 296
Gorazde	2,288	0	320		0	144	144	0	1 296	1 296
	2,444	0	200		0	90	90	0	810	810
Jan-June 97	6,594	73	840	913	33	378	411	296	3 402	3 698
Zebina	0,36	0	40	40	0	18	18	0	162	162
Lokve	0,88	0	25	25	0	11	11	0	101	101
Ilovaca		0	27	27	0	12	12	0	109	109
Gorazde		0	23	23	0	10	10	0	93	93
Maglaj	0,169	0	32	32	0	14	14	0	130	130
Kakanj	0,079	0	15	15	0	7	7	0	61	61
Soukbunar	0,8	0	19	19	0	9	9	0	77	77
Hadzici	0,68	0	77	77	0	35	35	0	312	312
Kasatici	0,172	0	28	28	0	13	13	0	113	113
Vogosca	0,82	0	110	110	0	50	50	0	446	446
Faletici	0,4	0	52	52	0	23	23	0	211	211
Ilijas	1,25	0	120	120	0	54	54	0	486	486
Novi Seher	0,172	0	50	50	0	23	23	0	203	203
Novi Seher	0,25	37	0	37	17	0	17	150	0	150
Kresevo	0,628	0	55	55	0	25	25	0	223	223
Kakanj	0,3	44	0	44	20	0	20	178	0	178
Vinac	0,3	0	33	33	0	15	15	0	134	134
Vitez	0,62	0	42	42	0	19	19	0	170	170
Stolac		0	27	27	0	12	12	0	109	109
Glavaticevo	0,344	0	40	40	0	18	18	0	162	162
Bijela	1,1	0	80	80	0	36	36	0	324	324
Osmaci	2,17	0	229	229	0	103	103	0	927	927
Celic	0,95	0	55	55	0	25	25	0	223	223
Gradac	1,578	0	207	207	0	93	93	0	838	838
July-Dec 97	14,022	81	1 386	1 467	37	624	661	328	5 613	5 941
<b>ECHO: Total</b>	<b>25,853</b>	<b>2 408</b>	<b>2 226</b>	<b>4 634</b>	<b>1 084</b>	<b>1 002</b>	<b>2 085</b>	<b>9 752</b>	<b>9 015</b>	<b>18 768</b>
<b>Commission: Total</b>	<b>67,453</b>	<b>6 329</b>	<b>4 353</b>	<b>10 682</b>	<b>4 803</b>	<b>5 073</b>	<b>9 876</b>	<b>22 511</b>	<b>15 017</b>	<b>37 527</b>

It was assumed that 90 % of ECHO project beneficiaries were in the 'other beneficiaries' category and 10 % were refugees.

Average number of persons per dwelling: 4,5

**Abbreviations and acronyms**

CAFAO	Customs and Fiscal Assistance Office
DM	German Mark
EAP	Essential Aid Programme
EBRD	European Bank for Reconstruction and Development
ECHO	European Community Humanitarian Office
EIB	European Investment Bank
EU	European Union
FYROM	Former Yugoslav Republic of Macedonia
IMG	International Management Group
KfW	Kreditanstalt für Wiederaufbau [Reconstruction Loan Corporation]
NATO	North Atlantic Treaty Organisation
NGO	Non-governmental organisation
OHR	Office of the High Representative
PMU	Programme Management Unit
TACIS	Technical Assistance to the Community of Independent States
UNHCR	United Nations High Commissioner for Refugees
UNTAES	United Nations Temporary Administration in Eastern Slavonia
USAID	United States Agency for International Development

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## REPLIES OF THE COMMISSION

## 2. SUMMARY OF PRINCIPAL OBSERVATIONS

2.1. Within one week of the Dayton Agreement, the Commission, together with the World Bank, mobilised the international community through the first donor conference for the reconstruction of Bosnia and Herzegovina held in December 1995. The Commission was able to decide at the end of 1995 to commit funds in early 1996 for a programme of essential aid (the EAP programme financed through Phare), and sent staff to Sarajevo at the beginning of 1996 for the purpose of setting up and monitoring the operation. In this respect, the Commission provided a rapid response to the urgency of the situation arising after the Dayton Agreement.

The Commission has been working in particularly difficult circumstances:

- The political situation on the ground has been unstable, with some parties obstructing the application of the peace agreements. Yet these agreements made the approval of the central authorities set up under them a precondition for the implementation of Community programmes. Approval was not obtained until November for 1996 and September for 1997. The Commission was therefore quite unable to implement its programmes immediately.
- The application of the political conditions laid down by the High Representative and the Council of Ministers has posed problems. Execution has, for example, been slowed down by the suspension of aid to the Republika Srpska on two occasions.
- Complex, constrictive legal and financial instruments are cited by the Court. The transposition, against the Commission's advice, of the procedures and ceilings of the TACIS programme in Regulation (EC) No 1628/96 delayed that Regulation's adoption to the end of July 1996. This accounts for the need, prior to that date, to use the dialogue procedure to obtain funds. Until April this year, all the Commission's proposals to amend the Regulation were systematically corrected to make them more restrictive.

Despite these difficulties, by the end of 1996, the budget under chapter B7-5 4 was 99.9 % committed. At the end

of 1997, the revised budget for chapter B7-5 4 (excluding the financial protocol line) was 99.5 % committed. Taking the 1996-1997 period together, the volume of budgetary resources committed by the Commission for the reconstruction, including humanitarian aid was ECU 542.2 million of which ECU 286.6 million had been contracted and ECU 208.1 million paid. This rate of contracting and payment contrasts favourably compared with other external aid programmes funded by the Community budget, particularly given the difficult conditions in Bosnia-Herzegovina. The Commission has also funded non-reconstruction activities, outside the scope of the Court's report for which the figures are not included above, in the field of democracy, human rights and CFSP joint actions.

2.2. In autumn 1995 the Commission published four communications announcing a comprehensive strategy. This strategy is taken up in the reconstruction programme drawn up by the Commission and the World Bank. They submitted the programme to different donors at three international conferences, obtaining the approval of the international community. Each year the Commission draws up guidelines for the strategy's implementation. These guidelines are then translated into sectoral programmes comprising a series of integrated projects, notably for refugees. The Memoranda of Understanding signed with the Bosnian authorities for the 1996 and 1997 programmes also provide an overall framework for the implementation of those programmes.

2.3. The essential aid programme (EAP), drawn up straight after the Dayton Agreement and introduced in January 1996, has provided assistance crucial to getting reconstruction under way. The programme has permitted the provision of equipment for schools, buses, tractors, agricultural inputs, equipment for the electricity sector etc. This programme was the first major response from a member of the international community to the problems of reconstruction.

The Commission refocused the equipment-supply programme for several reasons. It became aware of the difficult environment in which it was operating: the substantial risk of fraud, denounced at the time by the High Representative, the lack of transparency in the management of aid and the risk that aid might not reach its intended recipients forced the Commission to centralise the programmes. At the time the political

situation in Bosnia-Herzegovina meant there was little point decentralising the programme to the country's authorities. In taking this decision, the Commission was defending the Community's financial interests. The programme has been refocused on fewer sectors.

2.4. Given the constraints on creating new posts, the Commission has redeployed staff to reinforce the teams managing this assistance. These measures have had the following results:

- A 22-member team was set up at Sarajevo office in late 1996, some seven months after its opening. It comprises 4 A grades (including the head of the office), 1 B grade, 1 C grade and 16 local staff, seven of them expatriates. The Commission then seconded an A-grade official to the administration in Mostar (EUAM) to close the accounts for the EU's activities (ECU 200 million) and assigned another A-grade official to the OHR.
- In 1996 a new unit, DG IA-D-1, 'Bosnia and Herzegovina and reconstruction, including international coordination, horizontal aspects, multi-country programmes for former Yugoslavia', was set up in Brussels. At the end of 1997 this unit had a staff of 21, two-thirds of them assigned to former Yugoslavia.

As far as external technical expertise is concerned, 1998 is the first budgetary year for which the Commission is authorised to use operational credits for technical support for programme implementation, to a maximum of 2-3.5 % of programme costs. This contrasts with other donors such as USAID who may go above 15 % for similar types of expenditure.

2.5. The 1996 budget, published on 29 January 1996, includes three headings specifically for assistance to former Yugoslavia. Pending a legal basis, the Commission was authorised to use ECU 7 million of the appropriation for heading B7-5 4 1, the remaining ECU 20 million being held in reserve. The use of the ECU 20 million was subsequently authorised in the framework of the dialogue. In April 1996 the Commission presented a draft Regulation for the reconstruction headings; it did not enter into force until 14 August 1996. In the course of discussions, the Commission proposal underwent major amendments, notably the addition of an annex on the award of contracts based on the TACIS Regulation and wholly unsuited to the situation in Bosnia. In July 1997, i. e. the earliest date at which the Regulation could

be amended, the Commission submitted an amendment to that annex. The Council retained the original arrangements and accepted few of the Commission's proposals. The Commission submitted another proposal substantially amending the Regulation in January this year. This time the Council and Parliament took on board the major criticisms of Community action in former Yugoslavia and went along with the broad thrust of the Commission proposal.

2.6. The Commission is required to work with UNHCR in the case of refugees since the Dayton Agreement assigned a mandate to UNHCR specifically for this purpose. Considerable problems were encountered during discussions with the UNHCR on the EC contribution to housing projects implemented by NGOs through the UNHCR. The conditions under which the UNHCR wished to receive EC contributions were, in some aspects, contrary to the requirements of the Financial Regulation and lacking in transparency.

2.7. The Commission's mine-clearance programme has trained both instructors and mine-clearers. It has provided equipment and cleared mines from many areas to permit both the return of refugees and the execution of large-scale infrastructure works. This scheme has been carried out in close coordination with the international and local institutions, and the Commission has taken great care to avoid being caught up in the shady business dealings for which this sector is notorious. Some delays are attributable to the care with which the proposals submitted were analysed. Currently, the Commission is financing, in coordination with the BiH Mine Action Centre, a programme aimed at developing civil defence capacities in the sphere of mine-clearance. The main advantage of this scheme is that it addresses local mine-clearance capacities and thereby increases the speed and effectiveness of the operation. The commitment of the appropriations for 1997 has been delayed by difficulties in the negotiations with the Bosnian authorities. Planned for 1997, these funds were carried over to 1998 and committed on 26 March, enabling a contract to be signed between the Director-General of DG IA and the prime ministers of the Federation and the Republika Srpska.

2.8. Through the Essential Aid Programme in 1996 and the reconstruction programmes in 1996 and 1997, the Commission has repaired a total of 13 030 housing units allowing by the end of the programme period the return



of more than 50 000 persons (refugees and internally displaced) in Bosnia.

The return of refugees and displaced persons does not depend solely on the availability of housing. There are numerous variables which influence when a family will return to its repaired home, including the availability of a job, education facilities, and a reluctance to return to rural areas because of changing social attitudes. The policy followed by the Commission is based on voluntary return and respects the stringent conditions of the Dayton Agreement which require return to the original location of the family.

2.10. A number of actions in the energy sector have had some success such as:

- the delivery of equipment to coal mines which has helped increase production by 30 %,
- the delivery of coal and other inputs to electricity production which has helped make power cuts in Sarajevo largely a thing of the past,
- the distribution of gas in Sarajevo has helped restore supplies to 3 800 families and electricity supplies in Tuzla have helped 20 000 people.

2.11. The short term objective of transport actions was not to influence refugee return but to restore basic transport services, in particular in Sarajevo. This has been successful. Effects on refugee return will only occur in the longer term.

2.12. The two sectors mentioned demanded careful analysis before taking action. Though agriculture initially received no major funding, the situation has changed considerably in 1997 and, especially, 1998. The convincing results referred to by the Court have been achieved by thoroughly preparing viable projects (with the assistance of a project coordination unit that had already shown its mettle with the World Bank) in a now stable environment. For its part, the industrial sector had, with a few exceptions, to be completely reorganised before it could benefit from assistance programmes.

2.13. It would have been unrealistic to embark on massive public administration programmes before the basic institutions, and particular those provided for in the Dayton Agreement, were in place. At the end of last year,

the Commission, working closely with the OHR, approved support programmes drawn up over the year, for introduction in the course of this year, to strengthen the Central Bank, the Ombudsman, the Human Rights Commission and the Constitutional Court.

### 3. DESIGN AND IMPLEMENTATION OF AID PROGRAMMES

#### Commission strategy

##### *Planning of DG IA measures*

3.3. In autumn 1995 the Commission published four communications announcing a comprehensive strategy. This strategy is taken up in the reconstruction programme drawn up by the Commission and the World Bank. They submitted the programme to different donors at three international conferences, obtaining the approval of the international community. Each year the Commission draws up guidelines for the strategy's implementation. These guidelines are then translated into sectoral programmes comprising a series of integrated projects, notably for refugees. The Memoranda of Understanding signed with the Bosnian authorities for the 1996 and 1997 programmes also provide an overall framework for the implementation of those programmes.

This budget effort was the subject of a report to the Council, which noted its main conclusions at the general affairs meeting of 29 April 1997.

3.4. The European Commission was entrusted with the management of the largest donor contribution for Bosnia. The first allocations of funds in 1996 reflected the urgent needs affecting a wide range of sectors, but also the limited absorption capacity of the individual sectors. The EAP focused on the ten key sectors most affected by the war. In addition, the weaknesses of the institutional set-up as well as non reliable local counterparts obliged the Commission to intervene in different fields.

The second largest donor, the World Bank, also covered a wide range of sectors and activities.

For the 1997 allocations, a more systematic programming approach has been developed with priorities based on the objectives set by the international community and the Member States as agreed in the conclusions of the Peace Implementation Conferences and Steering Boards and within the Council meetings.

3.5. The EAP was the Community's response to the reconstruction programme drawn up by the Commission and the World Bank with the backing of the IMF, which was approved by the international community at the first donor conference in 1995.

The Commission refocused the EAP for several reasons. It became aware of the difficult environment in which the programme was operating: the substantial risk of fraud, denounced at the time by the High Representative, the lack of transparency in the management of aid and the risk that aid might not reach its intended recipients forced the Commission to centralise the programmes. At the time the political situation in Bosnia-Herzegovina meant there was little point decentralising the programme to the country's authorities. In taking this decision, the Commission was defending the Community's financial interests. The programme has been refocused on fewer sectors.

3.7. It would have been unrealistic to embark on large-scale institutional support programmes before the basic institutions, and particular those provided for in the Dayton Agreement, were in place. It was not until the Quick Start Package of autumn 1996 that the international community started taking a more systematic approach. The Commission has been given responsibility for everything relating to foreign trade and the central banking system. Its assistance has been swift and successful. Such has been its success that it has been asked to extend its assistance to the sphere of taxation (CAFAO) and commercial banking (training scheme), and other donors dealing with the commercial law have sought its help. The Commission has also been asked by the High Representative to handle assistance for the organisation of the main institutions of State (Parliament, the Presidency, Council of Ministers, and Ministers of State). This assistance has been in place since autumn last year. The Commission is also helping the Central Bank and other Dayton institutions, e. g. the Ombudsman, the Human Rights Commission and the Constitutional Court. Last but not least, the Commission has, since the start of the year, been identifying each entity's needs in the matter of reorganising the judicial system.

Since December 1996 the Commission has been developing an action plan in support of health reforms. This inter-DG strategy is being implemented this year.

3.8. The Commission fully executed the budget line for refugees decided in 1996 by the budget authority.

Support for refugees was and remains the first priority in executing the budget for Bosnia-Herzegovina.

The safe and orderly return of the many refugees and displaced persons calls for a large number of schemes aimed at establishing adequate safety, rehabilitating housing and basic infrastructure, restoring health, social and education services for all groups, including minorities, and launching economic activities permitting the reintegration of refugees into the economic and social fabric. It is difficult, in such conditions, to distinguish clearly between return programmes and other aid activities. Only a combination of such schemes can have any lasting, beneficial impact on return. Given that the return of refugees and displaced persons is so complex, the Commission has sought to use every means available to promote that process.

To bring the reconstruction process under way, the Commission has developed a large-scale programme (ECU 125 million) to deliver the equipment and supplies necessary to relaunch vital sectors of an economy wrecked by war. This activity was better handled by DG IA, which already had some experience of supplying goods to the Caucasus, Macedonia and Albania and standardised procedures developed for Phare/TACIS. Note also that the Community's effort to assist Bosnia's reconstruction, coupled with the overriding wish to maintain the peace, is a new experience for the Commission and the other donors: it was inevitable that the instruments used would have to be adapted to circumstances.

Within the Commission, DG IA's programmes were geared more to infrastructure, institutional support and the rehabilitation of housing, while ECHO sought to support social and vital infrastructure (health, education, emergency rehabilitation).

During the programme's crucial start-up phase, the activities of Commission departments were coordinated by an interdepartmental working party chaired by the Deputy Director-General of DG IA. ECHO, DG XXI (for CAFAO) and other departments were involved throughout this exercise.

This formal coordination was backed up by numerous informal and operational contacts between departments.

3.9. The donors' programme involved a division of labour. The EBRD, for example, handled the energy and telecommunications sectors, while the World Bank dealt with transport and water. The Commission was involved in a number of sectors in coordination with the other donors. For example, it handled the reconstruction of the telecommunications system which restored connections between the Republika Srpska and the Federation last September (cf. 3.30.).

#### *Planning of ECHO measures*

3.10. Although the Commission has announced an envelope of ECU 1 billion for reconstruction for the period 1996-1999, budget execution takes place with in an annual framework.

3.11. In view of the continuing humanitarian needs in Bosnia, the Commission has decided to maintain substantial humanitarian aid alongside reconstruction assistance. These activities are coordinated by the interdepartmental working party and informal contacts (cf. 3.8.).

3.12. ECHO's activities in the housing sector were limited in 1996, the main operation being a pilot project set up by the UNHCR. It was not until last year, after a request of the High Representative, that ECHO really got involved in this sector.

#### *Organisation of DG IA departments*

3.13. Given the constraints on creating new posts, the Commission has redeployed staff to reinforce the teams managing this assistance. These measures have had the following results:

- A 22-member team was set up at Sarajevo office in late 1996, some seven months after its opening. It comprises 4 A grades (including the head of the office), 1 B grade, 1 C grade and 16 local staff, seven of them expatriates. The Commission then seconded an A-grade official to the administration in Mostar (EUAM) to close the accounts for the EU's activities (ECU 200 million) and assigned another A-grade official to the OHR.

- In 1996 a new unit, DG IA-D-1, 'Bosnia and Herzegovina and reconstruction, including international coordination, horizontal aspects,

multi-country programmes for former Yugoslavia', was set up in Brussels. At the end of 1997 this unit had a staff of 21, two-thirds of them assigned to former Yugoslavia.

As far as external technical expertise is concerned, 1998 is the first budgetary year for which the Commission is authorised to use operational credits for technical support for programme implementation, to a maximum of 2-3.5 % of programme costs. This contrasts with other donors such as USAID who may go above 15 % for similar types of expenditure.

For 1998, the Commission has decided to devolve the implementation of Community assistance to staff in Bosnia. The Delegation, and in particular its head, are going to be given greater powers. It is also going to increase staffing at its offices in various Bosnian towns outside Sarajevo, and thus its presence on the ground, especially in Banja Luka and Mostar.

For the first time in the 1998 budget there are allocations for ex-Yugoslavia followed by a comment which allows the Commission to use operational funds for technical support purposes — up to 2 % for Phare and 3,5 % for Reconstruction, otherwise known as the STAP facility. This facility will help in part to resolve some of the human resources problems the Commission faces. However, it contrasts with USAID which benefits from over 15 % support for similar expenditure.

3.14.-3.15. The Commission has decided to increase the size of the Delegation in Bosnia and Herzegovina. The staff selected will take up their duties this spring. The Commission will then have 21 A-grade staff in Bosnia and Herzegovina (10 officials and 11 local technical assistance staff) and 10 C-grade staff, three of them officials. In total, the Delegation will have a staff of 36, 17 of them officials. It is also launching an invitation to tender to set up, in Bosnia, a technical assistance unit to prepare and supervise projects under its control.

3.16. The EAP in Bosnia was launched under extreme conditions. Given the importance and amount of the financial assistance involved, the need to ensure adequate control, and the extremely complex situation following the armed conflict, a visible and operational presence of the Commission was considered essential to assist the implementation of the programme.

The EC Office in Sarajevo in the first half of 1996 was a technical office which was opened primarily to implement

the Essential Aid Programme. The staffing comprised technical and external experts and it was therefore justified to use operational credits for this purpose. At that time the Commission could not use credits from Part A of the Budget as the decision to establish a Commission Delegation in Sarajevo was not taken until 24 April 1996.

Running costs relating to the functioning of the office were progressively absorbed as the official Commission presence in Sarajevo was consolidated. This was achieved firstly through an advance account and then an imprest account. The two major running costs of office rent and staff salaries were met using credits from Title A6 of the EC budget with effect from June and November 1996 respectively. However, the availability of extra credits in Part A of the Budget would have made the Commission's task easier.

3.17. The specific situation of Eastern Slavonia has to be taken into consideration in order to understand the decisions taken in the implementation of the Commission's projects. The region was under the control of UNTAES whose mandate expired 15 January 1998, the date of the full reintegration of the region to Croatia. During this period UNTAES was the institution in charge of the administration, and was the only official counterpart to the Commission. However, given that UNTAES had no legal statute it was not possible to formalise an agreement with the Commission.

Therefore, given its overall personnel constraints, the Commission had recourse to the procedures described by the Court in order to ensure an adequate level of staffing and administration on the spot of the funds concerned. This has enabled the Commission to speed up the mobilisation of Community aid.

3.18. The Commission is actively involved in the Economic Task Force coordinating the overall reconstruction process. It is also actively involved in the sectoral working parties, especially in sectors receiving Community financing, which it has asked the IMG to chair in view of its technical know-how and understanding of the needs.

3.19. In order to respond quickly to the emergency situation arising after the end of the conflicts in Bosnia-Herzegovina, the Commission implemented the EAP using a sub-contracted arrangement. However, the difficulties described in 3.5 led the Commission to stop the programme and centralise its management. At the time, the situation in Bosnia, a country emerging from a war with a weak, complex and barely functioning

government apparatus, in transition from Communism system to a Western-style democracy, did not seem to offer the Commission the guarantees necessary for the decentralised implementation of Community aid.

It is in full awareness of all the risks that the Commission has opted to centralise the management of its programmes. Its experience of the EAP bears out its judgement. The Commission deliberately chose not to create PMU-type structures in Bosnia: their proliferation in some Phare countries has attracted criticism and they are currently being rationalised.

As a result of subsequent improvement in the political structures and the establishment of more reliable institutions in Bosnia Herzegovina, the Commission is preparing from spring 1998 to deconcentrate certain functions by transferring resources to its office in Sarajevo. (see the remarks in 3.13.-3.15.).

3.20.-3.21. As stated in 3.13.-3.15., the Commission is taking steps to deconcentrate implementation by reinforcing its office in Sarajevo.

In addition, the Commission, together with the Bosnian Ministry of Agriculture, Water and Forestry, has developed an approach not to create PMUs but to reinforce the administrative capacity of some public institutions:

- In the water sector, a Project Coordination Unit was formally established in October 1997 to offer an interface between the Commission and the relevant ministry in the Federation in identifying and implementing the projects. The role of the unit is limited to the technical management of the projects.
- More recently, the Commission agreed at the end of 1997 to fund the Agriculture Implementation Unit supported to date by the World Bank.

Given the difficulties in the region, there was no question setting up PMUs in the ministries during the start-up phase (cf. 3.19).

The Commission is no less involved in coordinating international aid than the World Bank.

3.22. The measures taken to strengthen the capacity of the Delegation are described in 3.13.-3.15. In addition,

the Commission is putting in place a technical assistance unit on the ground, and an audit facility.

As far as the Mostar programme was concerned, almost all staff in the city were provided by Member States at little or no cost to the Community budget. The Commission detached an official to Mostar and provided support for technical assistance. The costs of administering the action were met from the operational budget in accordance with the Joint Action. These arrangements are more generous than those permitted under existing legislation for the reconstruction or Phare budget lines.

3.23. The Head of EC CAFAO consults with the management in DG XXI on a quasi-daily basis and reports regularly to the President of the inter-departmental group. This line of command allows a decentralised system to work without losing control of the operation. The effectiveness of the EC CAFAO operation in terms of organisation and financial management relies on back-up and support from Brussels, be it management guidance, organising the supply of the international staff, the purchase of the necessary equipment, the management of the funds with the procurement agent, the control of the local budget of CAFAO etc.

3.24. The World Bank and USAID (up to 15 % of programme costs) benefit from greater flexibility in the financial arrangements applying to programme management costs than the Budgetary Authority which has, on an exceptional basis, permitted. the Commission to use 2-3.5 % of programme costs. USAID benefits from the possibility to conclude addenda to contracts exceeding several million ecus without formal tendering procedures (e.g. operating costs of their office in Sarajevo).

3.25. The Commission appointed a new Director for Ex-Yugoslavia on 1 November 1997. In addition, a Special Advisor with specific responsibility for coordinating aid on the spot in Bosnia as well as in Brussels was appointed on 1 December 1997.

#### *Organisation of ECHO departments*

3.26. Given the particular nature of humanitarian aid, the consultants recruited for ECHO missions on the ground are employed on renewable six-month contracts. Since it takes about six weeks to prepare such contracts,

the managers of offices on the ground are asked two months before contracts expire whether renewal is recommended and whether consultants wish to continue their missions.

3.27. To enhance operational efficiency, ECHO is currently considering the scope for decentralising some of its contracting and payment procedures. ECHO Bosnia-Herzegovina has, since 1996, been able to manage projects up to a limit of ECU 42 000.

However, consultation of headquarters remains necessary for the purposes of managing contracts. Without such consultation, headquarters would find it difficult to monitor the proper conduct of operations in the field. Such decentralisation would also appreciably increase the costs of technical assistance. Should it nevertheless take place, the Commission would need more staff to enable it to send humanitarian specialists into the field.

#### **Programme implementation**

##### *Rate of utilisation of appropriations*

3.29. Much as the Commission would have liked it to, the EIB's statutes prevented its involvement in the process because of a Bosnian debt connected with the pre-war debt to the EIB. In May the Commission will be putting proposals to the Council aimed at enabling the EIB to play its part.

3.30. The Court seeks to draw comparisons between actions financed by the Commission and those funded by other donors. Such a comparison, however, neglects to note that other donors implement actions of a very different nature.

For example, the World Bank provides its support essentially through loans. Managing a loan scheme differs significantly from a grant régime such as the one provided by the Commission. Grants are provided with no guarantee other than the political commitment of the beneficiary. In order to protect public funds, controls on the disbursement of grants are therefore much more complex and slower than those for loans. In contrast to this situation, loans are repayable and guaranteed by the beneficiary state. Their repayments are credited to the balance sheet of the bank. Political conditionality is less of a constraint. In spite of this handicap, the

disbursement performance of grants provided by the Commission and the loans of the World Bank is broadly similar.

As far as USAID is concerned, a substantial component of the assistance they provided was in the form of credit lines to small businesses, again with more rapid disbursement rates. The decision-making procedures applying to USAID are also markedly more simple than in the case of the European Union, where the Commission had to operate under a Regulation with much stricter public procurement rules. Indeed, the Reconstruction Regulation imposed by Council was in fact a simple transposition of the TACIS Regulation, quite unsuited to the situation in Bosnia. In contrast to the United States, which worked initially mainly where their troops are based, European Union aid initially comprised both entities. Aid to the Republika Srpska was suspended first in 1996 and then in 1997 because of the requirements of the Dayton Agreement, and this also slowed down disbursement.

3.32. The Commission's mine-clearance programme has trained both instructors and mine-clearers. It has provided equipment and cleared mines from many areas to permit both the return of refugees and the execution of large-scale infrastructure works. This scheme has been carried out in close coordination with the international and local institutions, and the Commission has taken great care to avoid being caught up in the shady business dealings for which this sector is notorious. Some delays are attributable to the care with which the proposals submitted were analysed. Currently, the Commission is financing, in coordination with the BiH Mine Action Centre, a programme aimed at developing civil defence capacities in the sphere of mine-clearance. The main advantage of this scheme is that it addresses local mine-clearance capacities and thereby increases the speed and effectiveness of the operation. The commitment of the appropriations for 1997 has been delayed by difficulties in the negotiations with the Bosnian authorities. Planned for 1997, these funds were carried over to 1998 and committed on 26 March, enabling a contract to be signed between the Director-General of DG IA and the prime ministers of the Federation and the Republika Srpska.

#### *Project preparation*

3.33. The measures described in 3.13.-3.15 and 3.22. are designed to improve the situation of Commission services on the ground in Sarajevo.

3.34. The IMG was created at the initiative of the Commission. It has consistently been used by the

Commission in the preparation of the programmes in the sectors where they have a real expertise such as to identify projects and means of implementation (SRSA, among others, was identified by the IMG as a suitable NGO for Gorazde).

The IMG is, however, only involved in certain sectors (energy, housing, transport and water). It is therefore unable to help the Commission in sectors such as education, health, agriculture or institutional development.

3.35. At the NGO meeting in January 1998 the expectations and requirements of the Commission were fully explained. The Commission presented a detailed document of over 400 pages setting out clear instructions on drawing up proposals. The proposals received, representing about 200 projects, have been examined and evaluated on the basis of pre-established technical criteria. The Court's description of this exercise as being 'NGO demand-driven' fails to take account of these factors.

In the humanitarian field, the Commission supervises NGOs and their activities through its on-the-spot technical assistance staff, who enable ECHO to play an active role and keep the initiative in its partnership with the NGOs in the field. ECHO also makes frequent visits to its partners' headquarters to check their administrative and financial capacities and the accuracy of data in their descriptive and financial reports. Last but not least, ECHO also evaluates projects and/or programmes.

#### *Contracting*

3.36. The existence of two separate Regulations reflects the Budgetary Authority's decision in 1996 to create a new line specifically for reconstruction, for which a legal base is necessary. In 1995, the budget allocation having been established, Phare seemed to be the only instrument available.

3.37. The derogations from standard procedures introduced in the EAP enabled the Commission to speed up the implementation of the programme in response to an urgent situation.

3.39. The Commission has launched a financial audit of the EAP and will address the points raised by the Court concerning the Procurement Agents in that context. As far as the Commission's own actions are concerned:

a) Short-lists of suppliers drawn up by the Procurement Agents (PAs) were based on a register collected through an open call for expressions of interest issued by the Commission. The register gathered a total of 1 692 potential suppliers (from 14 EU and 11 Phare countries) covering all eight sectors of EAP.

c) In a Bosnia emerging from war and where there was still a considerable risk of instability, it is easy to understand why the lowest bids sometimes exceeded the sum initially allocated for the operations.

d) The terms of reference for contracts between the Commission and procurement agencies were very precise with regard to the procedures governing equipment purchases. In some cases the Commission authorised derogations from the normal deadlines laid down by the Phare rules to respond to the urgency of the situation.

g) The Commission took care in checking lengths of short-lists and provided statistics on their geographical distributions among Member States.

Complaints were received from some Member States pointing out that the number of contracts awarded to their respective national manufacturers did not reflect the level of their contribution to the EU budget. These remarks conflict with the need for a completely independent approach to managing the EAP programme.

3.40. As laid down in Regulation 1628/96, the Phare countries enjoy access to contracts on an exceptional basis. This differentiation was imposed on the Commission by the legislative authority.

3.41. Contrary to the initial proposal of the Commission, the Council imposed stricter ceilings on more flexible procurement procedures in particular for supplies and works contracts.

3.42. In view of the circumstances, the use of NGOs helped cut costs, speed up procedures and manage a large-scale operation more effectively.

A standardised form for completion by the manager is now an integral part of the dossier.

3.43. Rules governing sub-contracting were amended in the August 1997 vade-mecum following the Court's comments on this aspect.

3.45. The scale used by ECHO to cover the costs of local staff will shortly be updated, notably in view of the failure of fees to reflect current conditions in Bosnia-Herzegovina.

ECHO's procedures for preparing contracts for rehabilitation in Bosnia-Herzegovina require the partner to draw up a preliminary specifications for approval by the IMG and ECHO Bosnia-Herzegovina before contracts are drawn up and signed. These specifications cannot be included in the contract because they generally undergo many changes in the course of works. If they were included, each change would require the contract to be amended, generating a considerable amount of red tape.

The duration of the guarantee is agreed between the firm carrying out the works and the recipient of the project. At the end of each project, the NGO, the construction firm and a representative of the recipient, often the local council, carry out a joint inspection, at the end of which the recipient usually accepts the works and takes possession of the building. ECHO Bosnia-Herzegovina also asks the IMG to carry out the final inspection of works before approving the final payment, which in ECHO's case is always 20 %.

#### *Payments*

3.46.-3.48. It may be possible for advance payments to be made directly by the financial unit of DG IA. However, this would need to be clearly specified in the contract. The Commission will examine the feasibility of this procedure. Requests for normal payments should continue to be sent to the operational services in order that the service rendered can be verified and the request endorsed 'Conforme aux faits, bon à payer', as required by the Financial Regulation. The setting up of a local payments system on-the-spot to accelerate procedures is envisaged.

3.47. A standard format for a bank guarantee has now been developed and is annexed to each contract.

Nevertheless, whatever their format, many bank guarantees have to be returned to the contractors for the following reasons:

1. The date of validity on the bank guarantee is incorrect: it does not comply with the general conditions and specifies too early an expiry date.

2. The bank account mentioned on the bank guarantee (which directly affects the validity of this guarantee) and the bank account on the contractor's request for payment do not tally. The Commission cannot execute such a payment without undermining the bank guarantee. This is therefore a question of substance rather than of form.

3.49. The decision to repair the Parliament and the choice of the parts to be repaired were put forward by the OHR and the World Bank. The project had already been appraised and invitations to tender prepared when the Commission's financial support was sought. The Commission could have refused to take part because the new invitations to tender it had to launch under its own procedures meant there was no way it could meet the deadlines. Given the absence of other funds and the political importance of rebuilding the Parliament, the Commission pledged its backing for the works requested, which did not include the main chamber.

The Director-General of DG IA visited the site on 3 April after consulting the High Representative. The project plays a strategic role in the international community's efforts to bring together the central authorities and the Parliament of Bosnia-Herzegovina in these premises. All concerned on the spot confirm the redundancy of the old chamber in view of the availability of suitable smaller meeting rooms.

#### *Project monitoring and evaluation*

3.51. For the EAP programme, Technitas were given the specific task of monitoring. The role of the Programme Officers was therefore to accompany the programme on the ground in close liaison with the Task Manager in Brussels who retains responsibility for the overall monitoring.

For the reconstruction programme, monitoring arrangements exist for the sectors of housing (since mid-1997), water (since October 1997) and (since December 1997) agriculture. A more systematic approach will draw upon the budget remarks of the Ex-Yugoslavia lines in the 1998 budget which allows for a proportion of the operational credits to be used for technical support purposes. Part of these credits are to be used for monitoring purposes.

3.52. A draft evaluation report will be sent to the Court when it becomes available in May,

3.53. a) The Commission is in the process of developing arrangements with Bosnian authorities concerning the utilisation of the counterpart funds generated by the repayments of the loans made under the Phare moto-cultivators project.

In line with the 1998 Agriculture Financial Proposal, an umbrella organisation will be created to both provide seed capital and credit facilities in rural areas and coordinate the management of the counterpart funds. Priority support will be given to those initiatives that generate employment in rural areas and process local produce.

b) The payment system is based on cash-flow estimates. The Commission cannot estimate the operating funding needed until projects have become operational (i. e. at the time of the first interim payments and after the payment of advances).

c) The financial accounts will be consolidated just before the closure of the accounts for the special funds.

3.54. All projects are currently supervised by technical agencies (IMG, specialist contractors etc.).

3.55. b) The Council repeatedly requested the Commission to fund the UNHCR in the case of refugees since the Dayton Agreement assigned a mandate to UNHCR specifically for this purpose. Considerable problems were encountered during discussions with the UNHCR on the EC contribution to housing projects implemented by NGOs through the UNHCR. The conditions under which the UNHCR wished to receive EC contributions were, in some aspects, contrary to the requirements of the Financial Regulation and lacking in transparency.

c) Since May last year every ECHO contract with the UNHCR has included a clause requiring 'sub-agreements' to be transmitted to ECHO.

## 4. IMPACT

### Geographical distribution

#### *Entities constituting Bosnia-Herzegovina*

#### Una Sana (Federation)

4.4. Whilst Una Sana is a priority case for returning refugees, the Commission has never subscribed to the



plan proposed by the Federation authorities because of certain shortcomings in the proposal. When the Commission proposed to include other elements (e.g. social infrastructure and repairs to basic infrastructure) considered essential to encourage refugees to return, this was not accepted by the Federation authorities which led to delays in the negotiations. Nevertheless, the Commission continued to fund programmes in Una Sana independently of the proposal made by the local authorities. There is also an agricultural project worth over ECU 2 million which represents a significant contribution to this sector.

A study was sought after the Commission received many plans and requests for funding in the Una Sana area. The study gave a clearer picture of the huge needs in this canton and constituted the basis of further planning for the region. This includes the ECU 141 million Refugee programme for 1998 and for which a Refugee Workshop was held in January 1998 to brief and prepare the main players likely to be responsible for the programme's implementation. Part of this programme will be destined for Una Sana.

#### Brcko (Republika Srpska)

4.3.-4.5. The return programme also enabled a number of projects to be financed in Brcko.

#### Croatia

4.6. An initial presence was established by UNTAES in the Vukovar area during the 1st semester of 1996. The initial decision for the 1996 programme, made against a background of political pressure to begin reconstruction measures, was based upon the limited information available during the early period of the presence in the area. Once the Commission's implementing agency was more firmly established it became evident that changes to the programme were required to more closely align the constituent elements with the reconstruction needs and political requirements of the area. To have done nothing pending clear identification of the exact needs would have seriously delayed the Commission's (and hence EU's) response to the area's needs, an option considered to be politically unacceptable.

#### Sectoral distribution

##### *Housing and refugee return*

4.10.-4.11. The rehabilitation of housing depended on the availability of budget resources, which was itself

contingent on the dialogue (see 2.5) and the adoption of reconstruction Regulation. As a result, projects could not begin until autumn 1996. In order to further accentuate the return of refugees and displaced persons, the Commission organised on January 23 1998 a workshop with NGOs in order to launch a comprehensive return programme financed from the 1998 budget. Following this workshop attended by more than 200 NGOs, the Commission decided on March 27 to develop a ECU 141 million programme including an ECU 105 million housing programme allowing the rehabilitation of 5 000 houses. This programme is now under implementation. A first tranche of ECU 63 million for rehabilitation of houses has already been launched and contracts were signed in Sarajevo with 23 NGOs on April 3. The repairs are going to be implemented during the 1998 reconstruction period (mainly during spring and summer) and will be achieved before the winter period. The programme foresees the return of 20 000 additional persons in 1998. A second tranche is ready and will be launched as soon as the budget earmarked for it is available (i. e. when the ECU 30 million reserve placed in the 1998 Budget is lifted). Projects are selected and contracts are ready.

4.13. a) Gorazde: The Commission asked the procurement agent Italtrend to recover the amount overpaid to SRSA for works not carried out, an amount calculated by an outside auditor at DM 787 384. The Commission has recently concluded that SRSA, unable to recover advances paid to its subcontractor Bosna Auto, was unable to repay the sum and was now contesting the validity of the audit. The Commission is now studying the possibility of legal action.

c) The Stolac pilot project was very difficult to implement because of the great tension between Croats and Bosnians in this part of Bosnia-Herzegovina. Progress has nevertheless been made: the rehabilitation of 95 houses was completed in March, and the owners have since returned to 94 of them. Furthermore, this pilot project encouraged many members of the minority to return to Stolac of their own accord in March and April.

4.14. It has been impossible for the Commission to concentrate only on refugees because of the social unrest this may cause in any given community. Without the return of displaced persons to their homes, there is little chance of having refugees returning. The Commission has increasingly used the following breakdown for its reconstruction programmes: 50 % for refugees returning

from the EU, 40 % for displaced persons and 10 % for vulnerable persons.

Through the Essential Aid Programme in 1996 and the reconstruction programme in 1996 and 1997, the Commission has repaired a total of 13 030 housing units allowing the return by the end of the programme period of more than 50 000 persons (refugees and internally displaced) in Bosnia.

4.16.-4.17. The system of loans developed with the KfW could not be introduced earlier because there was no legal framework in Bosnia for such a scheme. Moreover, the ownership of properties is the subject of dispute, which makes any system of rehabilitation loans difficult and requires the Commission's support for properties. Lastly, there was no reliable, unified banking system in Bosnia. In view of these factors, it would have been difficult to develop this system earlier without endangering the management of European public funds.

Before this scheme was set up, the Commission had no option but to accord grants for the rehabilitation of housing.

Promoting return cannot be likened to aiding the vulnerable. Return, if it is to last, must focus on communities and not on individuals selected according to social and economic criteria. More generally, the Commission has tried to encourage the minority to return wherever the start of a process of return is thought likely to trigger wider, spontaneous movements of return, so freeing accommodation currently occupied by displaced persons and enabling refugees to return from abroad.

4.18. The rate of occupancy of homes rehabilitated by the end of 1997 is 70 %, slightly higher than the UNHCR's estimates for the donors as a body (60-65 %).

Note, however, the following points:

- The approach sometimes used for reconstruction (self-help) leaves owners free to complete the works at their convenience, which means that works are sometimes finished after the contract with the NGO has ended. This is not the case of houses repaired by contractors (the other approach used), where the beneficiary receives a turnkey home.
- Political and security issues also have to be taken into account.

In 1997 the Commission focused on social infrastructure projects (Bihac hospital, rehabilitation of schools) to flank the housing rehabilitation programme.

4.19. The reason that the repairs focused on external works and communal areas (except for Eastern Slavonia) was because of the ownership/tenancy issues: this work was designed to preserve the buildings and enable their use by their current occupants, rightful or not. When ownership/tenancy issues could be solved, repairs were also carried out in the apartment itself: this is the case of Vukovar through the Housing Allocation Committee. A similar setting is currently being designed for Sarajevo with a joint EC/US/OHR initiative. The ownership/tenancy issues are instrumental if any significant return to the cities is to be achieved.

#### *Education*

4.21. The education programme of the EAP has significantly contributed to reviving local industrial production. SIP Konjuh, one of the largest furniture manufacturers in BiH before the war, was able to re-start production, to specialise in furniture for schools (which was not in its range of products), and to increase its staff from 384 in 1994 to 1 200 employees today. Furthermore, the improved quality control imposed by EAP has contributed to make SIP Konjuh competitive on the international market: this company exports by now 40 % of its production world-wide.

The goods were distributed to schools by the Bosnian authorities according to criteria of their own.

#### *Health*

4.24. In October 1997 the PHARE Management Committee approved a Health Programme of ECU 5.7 million in support of, among other actions, Primary Health Care and Health Financing Reform and Pharmaceutical Sector Development. Three tenders were launched between December 1997 and January 1998. It is presently foreseen that the first teams will be on the ground in March-April 1998.

4.25. In December 1997, the BiH Council of Ministers finally agreed on the location for the Laboratory for Quality Control: Sarajevo. Following this decision, an

action plan was agreed with the Federation Minister of Health under which a re-assessment of the contents and objectives of the project will be undertaken jointly by the Commission and the Federation Ministry of Health.

4.26. Commission services had a complementary approach to action in the health sector. The projects of ECHO were targeted towards the local level whereas DG IA sought to intervene at the entity level. This was constrained by institutional difficulties such as those mentioned in 4.25 of the Court's report. Throughout the process the Commission ensured close cooperation between its services.

#### *Energy (electricity and gas)*

4.28.-4.29. The effects of the EAP energy sector actions include:

##### 1. Electricity distribution

- A successful inter-entity project between Gorazde and Visegrad has been carried out through the EAP.
- In the Tuzla region, electrical distribution has been secured to 20 000 people.
- In Odzak, 27 km of electrical lines have been repaired.

##### 2. Thermal Power Plants

Power plants had not been affected directly by war destruction, but rather by the lack of spare parts and scarce supply of coal. The EAP contributed to supply both.

The Kakanj power plant is now able to produce up to 40 % of its pre-war capacity and power cuts in Sarajevo are largely a thing of the past. The city of Tuzla would still be in darkness without assistance from EAP.

##### 3. Gas

Pipes and regulators delivered under EAP (and installed in cooperation with the World Bank) have provided gas to approximately 3 800 families in the Novi Grad area of Sarajevo which had suffered particularly severe destruction.

The project included the supply of individual gas heaters and cookers for each family partly to ensure revenues to Sarajevogas.

##### 4. Coal Mines

With assistance of the equipment delivered by EAP, the mine of Breza was able to increase its production by

approximately 30 %, to 200 000 tons. The coal is delivered to the Kakanj power plant. The mine is now planning to reach a production of 500 — 600 000 tons in the near future and at the same time to increase safety conditions for the miners.

Impact is comparable in the coal mine of Tuzla, which was able to start with a third shift of miners.

4.30. The first part of ECU 13,5 million has now been contracted and is underway. Concerning the second part of ECU 7 million programme from budget line B7-5 4 3, the Commission waited for the remarks from the beneficiaries at the tender evaluation stage in order to avoid conflicts and cancellation of projects during the implementation stage.

4.31. Responsibility for applying the Dayton Agreement lies with the Bosnia-Herzegovina authorities, under the supervision of the High Representative. All main donors followed the same approach regarding the three Elektroprivreda-entities in line with the Dayton Agreement and with the full agreement of the High Representative.

The allocation of the budget was decided as a result of the urgent needs of the Elektroprivredas. Their aim is to build on this and develop inter-entity projects.

#### *Transport*

##### General remarks

4.33. Refugee return ultimately depends on an improved economic environment. Investing in transport infrastructure plays a major role in the revival of the economy.

##### Bridges

4.35. A clear reason for the delay of this project is the difficulties encountered in trying to cooperate with the Bosnian authorities. The completion date is now forecast to be July-August 1999. Preparatory work prior to the main repairs has proved beneficial. Preliminary underwater investigations have provided more precise information on the state of the existing bridge and enabled a more accurate estimate to be made of the cost of the repairs.

##### Roads

4.36. The contract has now been awarded and was signed in April 1998.

4.37. The projects in Republika Srpska were suspended for political reasons.

4.38. Consultations were made directly with the road maintenance units by the Procurement Agent to determine their exact requirements.

In the case of the asphalt and crushing plants, the specifications, in terms of capacity and performance, were presented by the road maintenance units to the Procurement Agent. However, the Commission was unable to approve the request as the unit price far exceeded the available budget (by a factor of 5 times). Instead, the Procurement Agent offered alternative mobile plant, for which the unit price was within budget, but for which the performance and capacity were much reduced. This alternative was accepted by the road maintenance units and the Ministry.

#### Civil aviation

4.40. The work on this project is scheduled to be completed in May 1998.

Despite the delays, which were principally the result of difficulties in cooperating with the local beneficiaries, progress has been made. This has been achieved using funds from a variety of donors. The EU's contribution has included the civil aviation masterplan which has seen the creation of a secretariat representative for civil aviation in Bosnia (3 entities).

#### *Water and domestic waste management*

4.44. Following the study of the waste management strategy for the Sarajevo Canton, the Commission has earmarked additional funding for the development of a waste strategy covering the entire State of Bosnia. This is seen as a necessary pre-condition for the development of new projects in the sector. Funding for follow-up initiatives will be considered under new programmes developed in 1998 in particular for the Sarajevo landfill.

ECHO, in close cooperation with the NGOs, the local authorities and the IMG, is now trying to remedy the problems raised by the Court.

#### *Telecommunications*

4.46. This success was achieved through funding managed by the Commission in spite of political difficulties encountered during the implementation of the programme.

4.48. It is easier to bring political pressure to bear in the telecommunications sphere than in other sectors because the network effect and the economies of scale are so great. The Commission has used this means of political pressure to strengthen implementation of the peace agreements.

#### *Agriculture*

4.49. Recognising the key role agriculture has to play, two agricultural programmes of ECU 5 million each were approved by the Phare Management Committee in May and October 1997. These programmes are supporting, among other actions, the revamping of agricultural production and the regeneration of the livestock sector in BiH. A follow-up agricultural programme for ECU 20 million has already been developed and was presented to the Phare Management Committee in March 1998.

4.51. The 1 300 motor cultivators delivered under EAP have provided replacement for approximately 5 % of the equipment destroyed during the war, while the World Bank covered a further 7,5 %. However the actual impact is probably larger since the majority of cultivators have been allocated to the most destitute farmers and returnees. The impact of small and medium-size lactofreezers is probably rather low in the short term since livestock population had declined by 60 % during the war. It should nevertheless grow rapidly, and is furthermore complementary to the Commission's long term strategy for the sector, for example, to the successful delivery of cows under EAP.

4.52. A substantial review of the project proposed by the NGO concerned had to be undertaken by the Commission so as to make it consistent with the objectives of the Commission's own programme. The revised proposal from ARP was only received in March 1997 and a contract signed by the Commission on 18 April 1997 thus allowing the NGO to mobilise in May. Similarly, once the revised project had been received, the tendering process for appointing a Procurement Agent could commence. Notwithstanding the above constraints, tractors and implements were delivered in time for the preparation of fields for winter crops.

#### *Private sector development and economic reintegration*

4.54. The Commission's action in the domain has been geared towards the economic integration of refugees and displaced persons, and has therefore complemented its main sphere of intervention. The situation in Bosnia cannot, moreover, be compared with that elsewhere in Central and Eastern Europe. Economic transition has been a complement to two fundamental components of

Community action, namely the physical reconstruction of the country following the war and the construction of a new state in the wake of the peace agreements. It is therefore normal that the Commission should have focused its efforts on the priorities and made choices in this sphere. Economic recovery is, however, receiving international assistance: the World Bank and USAID have targeted their efforts on this issue, doing far less in the field of the return of refugees than the Commission. There has therefore been a division of labour between donors and good coordination, which accounts for the Community's limited action in this sphere.

4.55. The EU Investment Guarantee Investment Trust Fund for BiH is designed to provide political risk insurance to companies wishing to develop their activities within the country but who have been deterred by the perceived risks of changes to/by the national Government.

The innovative nature of the scheme meant that the time taken to develop the proposal into a sound project took longer than would be the case for more straightforward proposals. The detailed Framework Agreement, together with a side letter covering certain financial arrangements, was signed by the Commissioner in July 1997. The Framework Agreement became effective as from September 1997 following signature by the Bosnian authorities.

A total of 9 preliminary applications have been received in respect of investments totalling ECU 158 million in the fields of manufacturing, construction, telecoms, energy and tourism. These are currently being assessed.

4.56. Selection of the Zica Wire Drawing Factory was based upon the catalytic effect that support to the company would bring to the reconstruction efforts within the region. The Factory's products are essential components of the major energy and transport infrastructure projects, as well as housing schemes throughout the region. The project is underway and a number of jobs have been created.

#### *Support for public administration*

4.57. It would have been unrealistic to embark on massive public administration programmes before the basic institutions, and particular those provided for in the Dayton Agreement, were in place. The Commission, working closely with the OHR, has approved support programmes for introduction throughout this year.

The Commission has provided, and will continue to provide, sizeable technical assistance to the Central institutions. Existing measures have already made a significant impact on Customs, the start-up of central banking and approximation of legislation.

## 5. CONCLUSION

5.1. The decision to launch a substantial programme of aid to the former Yugoslavia was not accompanied at the time by corresponding allocations of resources for the Commission to implement the programme. The Commission has taken steps in 1998 to improve the situation by transferring personnel to Sarajevo and has made proposals, both legislative and budgetary, designed to ease existing constraints. These are detailed below.

5.3. Within one week of the Dayton Agreement, the Commission, together with the World Bank, mobilised the international community through the first donor Conference for the reconstruction of Bosnia and Herzegovina held in December 1995. The Commission was able to decide at the end of 1995 to commit funds in early 1996 for a programme of essential aid (the EAP programme financed through Phare), and sent staff to Sarajevo at the beginning of 1996 for the purpose of setting up and monitoring the operation. In this respect, the Commission provided a rapid response to the urgency of the situation arising after the Dayton Agreement.

The Commission has been working in particularly difficult circumstances:

- The political situation on the ground has been unstable, with some parties obstructing the application of the peace agreements. Yet these agreements made the approval of the central authorities set up under them a precondition for the implementation of Community programmes. Approval was not obtained until November for 1996 and September for 1997. The Commission was therefore quite unable to implement its programmes immediately.
- The application of the political conditions laid down by the High Representative and the Council of Ministers has posed problems. Execution has, for example, been slowed down by the suspension of aid to the Republika Srpska on two occasions.
- Complex, constrictive legal and financial instruments are cited by the Court. The transposition, against the

Commission's advice, of the procedures and ceilings of the TACIS programme in Regulation (EC) No 1628/96 delayed that Regulation's adoption to the end of July 1996. This accounts for the need, prior to that date, to use the dialogue procedure to obtain funds. All the Commission's proposals to amend the Regulation were systematically corrected to make them more restrictive. Not until this year did the Parliament and the Council take on board the criticisms directed at aid to former Yugoslavia and go along with the main thrust of the Commission's proposals to make procedures more flexible and speed up implementation.

Despite these difficulties, by the end of 1996, the budget under chapter B7-5 4 was 99,9 % committed. At the end of 1997, the revised budget for chapter B7-5 4 (excluding the financial protocol line) was 99,5 % committed. Taking the 1996-97 period together, the volume of budgetary resources committed by the Commission, in addition to humanitarian aid, was ECU 542,2 million of which approximately ECU 286,6 million had been contracted and ECU 208,1 million paid. This rate of contracting and payment contrasts favourably compared with other external aid programmes funded by the Community budget, particularly given the difficult conditions in Bosnia-Herzegovina. The Commission has also funded non-reconstruction activities, outside the scope of the Court's report and for which the figures are not included above, in the fields of democracy, human rights and CFSP joint actions.

The Court's comparison of actions financed by the Commission and those of other donors does not take into account the different nature of the support provided. For example, the World Bank provides its support essentially through loans. Managing a loan scheme differs significantly from a grant régime such as the one provided by the Commission. Grants are provided with no guarantee other than the political commitment of the beneficiary. In order to protect public funds, controls on the disbursement of grants are therefore much more complex and slower than those for loans. In contrast to this situation, loans are repayable and guaranteed by the country concerned. Their repayments are credited to the balance sheet of the bank. Political conditionality is less of a constraint. In spite of this handicap, the disbursement performance of grants provided by the Commission and the loans of the World Bank is broadly similar. On 1 January 1998, the World Bank had

expended around ECU 260 million, compared with a Commission total of around ECU 275 million.

As far as USAID is concerned, a substantial component of the assistance they provided was in the form of credit lines to small businesses, again with more rapid disbursement rates. The decision-making procedures applying to USAID are also markedly more simple than in the case of the European Union, where the Commission had to operate under a Regulation with much stricter public procurement rules. In contrast to the United States, which worked initially mainly where their troops are based, European Union aid initially comprised both entities.

5.4. The Commission accepts the Court's criticism that the resources allocated to managing the reconstruction programme in ex-Yugoslavia were not commensurate with the budgetary allocation decided at political level. Given the other budgetary priorities managed by the Departments concerned (Assistance to Central and Eastern Europe, the pre-accession strategy, the Newly Independent States, CFSP, Democracy and Human Rights, Humanitarian Aid) there are limits to what can be achieved by redeployment of existing resources.

Given the constraints on creating new posts, the Commission has nevertheless redeployed staff to reinforce the teams managing this assistance. These measures have had the following results:

- A 22-member team was set up at Sarajevo office in late 1996, some seven months after its opening. It comprises 4 A grades (including the head of the office), 1 B grade, 1 C grade and 16 local staff, seven of them expatriates.

The Commission then seconded an A-grade official to the administration in Mostar (EUAM) to close the accounts for the EU's activities (ECU 200 million) and assigned another A-grade official to the OHR.

- In 1996 a new unit, DG IA-D-1, 'Bosnia and Herzegovina and reconstruction, including international coordination, horizontal aspects, multi-country programmes for former Yugoslavia' was set up in Brussels. At the end of 1997 this unit had a staff of 21, two-thirds of them assigned to former Yugoslavia.

As far as external technical expertise is concerned, 1998 is the first budgetary year for which the Commission is authorised to use operational credits for technical

support for programme implementation, to a maximum of 2-3.5 % of programme costs. This contrasts with other donors such as USAID who may go above 15 % for similar types of expenditure.

These measures will be completed by those described in 3.13-3.15: decentralising the implementation of Community assistance to Bosnia, increasing the powers of the Delegation and transferring staff to the Delegation from April this year.

Coordination between the Commission's departments is described 3.11.-3.12. above.

5.5. In autumn 1995 the Commission published four communications announcing a comprehensive strategy. This strategy is taken up in the reconstruction programme drawn up by the Commission and the World Bank. They submitted the programme to different donors at three international conferences, obtaining the approval of the international community. Each year the Commission draws up guidelines for the strategy's implementation. These guidelines are then translated into sectoral programmes comprising a series of integrated projects, notably for refugees. The Memoranda of Understanding signed with the Bosnian authorities for the 1996 and 1997 programmes also provide an overall framework for the implementation of those programmes.

At the London Conference of December 1996, the Commission took the initiative to set up the 'Reconstruction and Return Task Force' (RRTF) which, under the aegis and presidency of the OHR, coordinates reconstruction activities aimed at promoting return. Since 1997 the RRTF has brought together all major players in international assistance, among them the UNHCR, the World Bank, the United States and the Commission, laying down in its six-monthly reports the international community's policy on support for the return of displaced persons and refugees.

In 1997 the Commission also proposed a 'Deputy High Representative' with special responsibility for the RRTF, Mr Andrew Bearpark. The RRTF has also set up regional and local branches, which, with the Commission's active involvement, establish priorities for each region and municipality.

In the matter of cooperation with the Member States, the Commission, in 1996, initiated close cooperation with the Member States most directly concerned by the return of refugees to Bosnia-Herzegovina, organising a meeting on the subject in Brussels on 7 August 1996. This cooperation has since given rise to a series of

coordination meetings, both in Brussels and in the field, and led to the development of close links between the relevant departments in the Member States.

In 1998 the Commission has concentrated its reconstruction efforts on a major refugee programme worth ECU 141 million. A first tranche of ECU 65 million, for integrated refugee return programmes, was committed on 30 March 1998. Other packages will follow as soon as the Budgetary Authority lifts the ECU 30 million reserve in the 1998 Budget.

5.6. The essential aid programme (EAP), drawn up straight after the Dayton Agreement and introduced in January 1996, has provided assistance crucial to getting reconstruction under way. The programme has permitted the provision of equipment for schools, buses, tractors, agricultural inputs, equipment for the electricity sector etc. This programme was the first major response from a member of the international community to the problems of reconstruction.

The Commission refocused the equipment-supply programme for several reasons. It became aware of the difficult environment in which it was operating: the substantial risk of fraud, denounced at the time by the High Representative, the lack of transparency in the management of aid and the risk that aid might not reach its intended recipients forced the Commission to centralise the programmes. At the time the political situation in Bosnia-Herzegovina meant there was little point decentralising the programme to the country's authorities. In taking this decision, the Commission was defending the Community's financial interests. The programme has been refocused on fewer sectors.

As regards procedures, the 1996 budget, published on 29 January 1996, includes three headings specifically for assistance to former Yugoslavia. Pending a legal basis, the Commission was authorised to use ECU 7 million of the appropriation for heading B7-5 4 1, the remaining ECU 20 million being held in reserve. The use of the ECU 20 million was subsequently authorised in the framework of the triologue. In April 1996 the Commission presented a draft Regulation for the Reconstruction headings; it did not enter into force until 14 August 1996. In the course of discussions, the Commission proposal underwent major amendments, notably the addition of an annex on

the award of contracts based on the TACIS Regulation and wholly unsuited to the situation in Bosnia. In July 1997, i. e. the earliest date at which the Regulation could be amended, the Commission submitted an amendment to that annex. The Council retained the original arrangements and accepted few of the Commission's proposals. The Commission submitted another proposal substantially amending the Regulation in January this year. This time the Council and Parliament took on board the major criticisms of Community action in former Yugoslavia and went along with the broad thrust of the Commission proposal.

5.7. The mandate of UNHCR in relation to refugees is defined in the Dayton Agreement to lead and coordinate action in this field. The Commission is therefore obliged to work with UNHCR in this context. Considerable problems were encountered during discussions with the UNHCR on the EC contribution to housing projects implemented by NGOs, through the UNHCR. The conditions under which the UNHCR wished to receive EC contributions were, in some aspects, contrary to the requirements of the Financial Regulation and lacking in transparency. The Court's idea of a global contribution to UNHCR's funds therefore needs more careful consideration. The Commission intends to examine this question in light of the general conditions concerning financial arrangements with the UN currently under discussion.

5.8. Through the Essential Aid Programme in 1996 and the reconstruction programme in 1996 and 1997, the Commission has repaired a total of 13 030 housing units allowing the return by the end of the programme period of more than 50 000 persons (refugees and internally displaced) in Bosnia.

As far as the occupancy rates of houses is concerned, at the end of 1997 this was 70 % for Commission funded programmes, slightly above the average for the other donors.

In 1998, the Commission is reinforcing its action on return by the measures described in 5.5.

5.9. There have been some successes in the energy sector of the EAP programme :

- A successful inter-entity project between Gorazde and Visegrad has been carried out through the EAP.
- In the Tuzla region, electrical distribution has been secured to 20 000 people.
- thermal power plants have increased production and power cuts in Sarajevo have been reduced significantly,

- the supply of equipment to the mine of Breza has helped increase coal production by 30 %.

In the transport sector a number of road projects have been delayed by the suspension of aid to Republika Srpska for political reasons.

Help for public administration has been targeted on the Customs office, of considerable importance for public revenues of Bosnia-Herzegovina. Other key institutions which are receiving support in 1998 include: Central Bank, Ombudsman, Human Rights Commission, the Constitutional Court and the commercial banking sector.

In the health and education sectors, the constraints on DG IA are more a reflection of the relevant local authorities' inability to accept the assistance offered them (cf. Laboratory for Quality Control) than any lack of coordination between Commission departments. Likewise, in the education sector, the lack of a political will to harmonise curricula continues to hamper the re-establishment of multi-ethnic schools.

5.10. The Commission accepts that the resources devoted to managing assistance for former Yugoslavia were not commensurate with the political decision to provide extra budgetary resources. Measures to redeploy staff were taken and are detailed in 5.4.

The activities of Commission departments were coordinated by an interdepartmental working party chaired by the Deputy Director-General of DG IA. ECHO, DG XXI (for CAFAO) and other departments were involved throughout this exercise.

This formal coordination was backed up by numerous informal and operational contacts between departments.

5.11. At the beginning of the reconstruction programmes in 1996, assistance was spread over a number of key sectors in order to provide a response to the emergency situation of the time. Later in 1996, support was concentrated on a more limited number of sectors. In 1998, the Commission's programmes concentrated over 60 % of all resources for the former Yugoslavia on a single priority, namely the refugee return programme.

5.12. The Commission accepts the Court's criticisms concerning staff resources, complex procedures and the visibility of EU assistance in Bosnia-Herzegovina.

The constraints under which the Commission had to operate have been described in the preamble to the Court's report as well as in points 5.3. and 5.5.



The Commission decided early in 1998 to respond to these difficulties by taking the following measures:

- simplifying procedures by modifying the reconstruction Regulation
- transferring an additional 15 staff to its Delegation in Sarajevo from Spring 1998
- giving the Head of Delegation in Sarajevo additional powers

— bringing together all Commission services in one building in Sarajevo.

The Commission is willing to propose additional changes to the Regulation in order to simplify procedures further.

Taken together, and with the support of the budgetary and legislative authorities of the EU, these measures should help deliver a more visible and effective implementation of EU assistance in Bosnia-Herzegovina.

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