

Decision Establishing the Defense Reform Commission

In the exercise of the powers vested in the High Representative by Article V of Annex 10 (Agreement on Civilian Implementation of the Peace Settlement) to the General Framework Agreement for Peace in Bosnia and Herzegovina, according to which the High Representative is the final authority in theatre regarding interpretation of the said Agreement on Civilian Implementation of the Peace Settlement; and considering in particular Article II.1(d) of the last said Agreement, according to the terms of which the High Representative shall “Facilitate, as the High Representative judges necessary, the resolution of any difficulties arising in connection with civilian implementation”;

Recalling paragraph XI.2 of the Conclusions of the Peace Implementation Conference held in Bonn on 9 and 10 December 1997, in which the Peace Implementation Council welcomed the High Representative’s intention to use his final authority in theatre regarding interpretation of the Agreement on the Civilian Implementation of the Peace Settlement in order to facilitate the resolution of any difficulties as aforesaid “by making binding decisions, as he judges necessary” on certain issues including (under sub-paragraph (c) thereof) “measures to ensure implementation of the Peace Agreement throughout Bosnia and Herzegovina and its Entities”;

Mindful of III.5(a) of the said Constitution, which stipulates that “Bosnia and Herzegovina shall assume responsibility for”, inter alia, matters “necessary to preserve the sovereignty, territorial integrity, political independence and international personality of Bosnia and Herzegovina”;

Considering Article V.3(a) of the Constitution of Bosnia and Herzegovina, pursuant to which the Presidency of Bosnia and Herzegovina shall have responsibility for conducting the foreign policy of Bosnia and Herzegovina;

Further considering Article V.3(c) of the said Constitution, which provides that the Presidency of Bosnia and Herzegovina shall have responsibility for representing Bosnia and Herzegovina in international and European organizations and institutions;

Recalling Article V.5(a) of the said Constitution, which provides, inter alia, that “(e)ach member of the Presidency shall, by virtue of the office, have civilian command authority over armed forces” and that “All armed forces in Bosnia and Herzegovina shall operate consistently with the sovereignty and territorial integrity of Bosnia and Herzegovina”;

Considering Article V.5(b) of the said Constitution, which provides that “(t)he members of the Presidency shall select a Standing Committee on Military Matters to coordinate the activities of armed forces in Bosnia and Herzegovina”;

Mindful of the undertakings of Bosnia and Herzegovina under the Organization for Security and Co-operation in Europe Code of Conduct on Politico-Military Aspects of Security, including undertakings related to democratic political control of military forces;

Noting the Communiqué by which the Steering Board of the Peace Implementation Council of 28 March 2003, in reference to the sale of weapons to Iraq by the company VZ Orao, “underlined that appropriate measures, taking into consideration the issues of systemic reform and political responsibility, were essential to prevent such a situation occurring again” and “expected full cooperation from all relevant authorities in BiH in this matter, in keeping with their obligations under the Dayton-Paris Peace Accords and as a member of the United Nations. The Steering Board also stressed the need for defence reform in its own right, in order to resolve issues at variance with the BiH Constitution and to prepare BiH for integration into Euro-Atlantic structures”;

Recalling the defense pledges made by the authorities of Bosnia and Herzegovina on 28 January 2003 in the presence of the Political Directors of the Peace Implementation Council Steering Board, in particular the pledges to “implement defence reforms that will hasten BiH’s integration into the European family, and make the country and the wider region more stable in the long term” and to “strengthen those State-level institutions which exercise civilian command and control over the Armed Forces in BiH, in accordance with the highest international standards”.

Having considered, noted and borne in mind all the matters aforesaid, the High Representative hereby issues the

following:

DECISION
Establishing the Defense Reform Commission

Article 1

The Defense Reform Commission of Bosnia and Herzegovina (hereinafter “the Commission”), which is hereby established, shall be responsible, as directed by the Chairman of the said Commission, for drafting and amending such legislation, as may hereafter be required to be enacted by the Parliamentary Assembly of Bosnia and Herzegovina and by the legislatures of the Federation of Bosnia and Herzegovina, and of the Republika Srpska respectively, in the fields hereinafter identified. The Commission shall also be responsible for drafting regulations as it deems necessary in order to provide for implementation of such legislation.

Article 2

The Commission shall examine the legal measures necessary to reform defense structures in Bosnia and Herzegovina, identify constitutional and legislative provisions at variance with such requirements and propose legislation and other legal instruments in accordance with the following principles:

- 1) Defense structures in Bosnia and Herzegovina, and the legislation establishing such structures, must be consistent with Euro-Atlantic standards, in order to ensure, at a minimum, the credible candidacy of Bosnia and Herzegovina for entry into the Partnership for Peace program.
- 2) Defense structures in Bosnia and Herzegovina, and the legislation establishing such structures, must respect and be fully consistent with the commitments undertaken by Bosnia and Herzegovina within the politico-military dimension of the OSCE.
- 3) Democratic civil oversight of armed forces in Bosnia and Herzegovina must be established at both the State and Entity level.
- 4) Command and control at the State level must be guaranteed by, inter alia,
 - a. ensuring that the Presidency of Bosnia and Herzegovina is able to carry out fully its responsibility for protecting the sovereignty and territorial integrity of Bosnia;
 - b. ensuring that the Presidency of Bosnia and Herzegovina has full responsibility for representing Bosnia and Herzegovina in international and European organizations and institutions in connection with defense matters;
 - c. ensuring that State authorities have the sole authority to deploy internationally the Armed Forces in Bosnia and Herzegovina (e.g., in contribution to Peace Support Operations);
 - d. providing for the transparency of all defense structures in Bosnia and Herzegovina;
 - e. ensuring that relevant State institutions are able to exercise oversight over defense structures throughout Bosnia and Herzegovina;
 - f. ensuring that safeguards are instituted to provide for full compliance with the following clauses in Article V.5(a):

“Neither Entity shall threaten or use force against the other Entity” and

“All armed forces in Bosnia and Herzegovina shall operate consistently with the sovereignty and territorial integrity of Bosnia and Herzegovina”.
- 5) The interoperability of defense structures throughout Bosnia and Herzegovina must be ensured.

6) Funding for defense structures in Bosnia and Herzegovina must be within the fiscal limits established by political authorities through the democratic process.

Article 3

In accordance with the principles outlined in Article 2, the Commission shall, inter alia, prepare:

1. State-level legislation, including a State Law on Defense;
2. Amendments to the Constitutions of the Entities; and
3. Entity level legislation, including amendment to legislation.

Article 4

The Commission shall be composed of a maximum of twelve members, one of whom shall be appointed by the High Representative to serve as Chairman.

The Secretary-General of the SCMM and the Deputy Secretary-Generals of the SCMM shall be members of the Commission.

The President of Republika Srpska and the President of the Federation of Bosnia and Herzegovina shall each appoint two civilian representatives to the Commission. One representative from each Entity shall be the Entity Minister of Defense.

The High Representative, in his capacity as European Union Special Representative, shall designate a member to the Commission from among his staff.

The North Atlantic Treaty Organization (NATO), the Stabilization Force (SFOR), and the Organization for Security and Co-operation in Europe (OSCE) shall each be invited to appoint one representative to the Commission.

Article 5

The United States, the Presidency of the European Union, Turkey as representative of the Organisation of Islamic States and the Russian Federation may each appoint a permanent observer to the Commission.

The Chairman may also call for experts to provide expertise and evidence at meetings of the Commission, as s/he deems necessary for the fulfillment of the mandate of the Commission as provided for in this Decision.

Article 6

Appointments to the Commission shall be confirmed by the High Representative.

Article 7

The Chairman shall be responsible for directing the work of the Commission. He shall prepare a schedule of work and working procedures, as well as call meetings of the Commission, which may be held as required at locations throughout Bosnia and Herzegovina. No specific quorum shall be required in order to hold a meeting of the Commission.

Article 8

The Chairman may call for the formation of sub-working groups as s/he deems necessary for the fulfillment of the mandate of the Commission as provided for in this Decision.

Article 9

The Commission shall have such support staff and technical assistance as may hereinafter be determined.

Article 10

This Decision shall enter into force forthwith and shall be published without delay in the Official Gazette of Bosnia and Herzegovina.

Sarajevo, 8 May 2003.

*Paddy Ashdown
High Representative*