



**AFBIH:  
A SINGLE MILITARY FORCE  
FOR THE 21ST CENTURY**



**Defence Reform Commission  
2005 Report**

Submitted by the Defence Reform Commission



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Sarajevo

September, 2005



## Defence Reform Commission Members

Mr. Nikola Radovanović	<i>Co-Chairman</i>	<i>BiH Minister of Defence</i>
Dr. Raffi Gregorian	<i>Co-Chairman</i>	<i>NATO Headquarters Sarajevo</i>
MG (R'td) John Drewienkiewicz	<i>Vice-Chairman</i>	<i>OSCE Director of Security Co-operation</i>
Mr. Miroslav Nikolić	<i>Member</i>	<i>FBiH Minister of Defence</i>
Mr. Milovan Stanković	<i>Member</i>	<i>RS Minister of Defence</i>
Mr. Boško Šiljegović	<i>Member</i>	<i>Chairman, Joint Committee on Security and Defence Policy BiH Parliamentary Assembly</i>
Ms. Seada Palavrić	<i>Member</i>	<i>Deputy Chairman, Joint Committee on Security and Defence Policy BiH Parliamentary Assembly</i>
Mr. Branko Zrno	<i>Member</i>	<i>Deputy Chairman, Joint Committee on Security and Defence Policy BiH Parliamentary Assembly</i>
Mr. Vahid Karavelić	<i>Member</i>	
LT GEN Sifet Podžić	<i>Principal Military Advisor</i>	<i>Chief of BiH Joint Staff</i>
ASG John Colston	<i>Representative</i>	<i>NATO, Assistant Secretary General for Defence Planning and Operations [Senior Representative on Defence Reform]</i>
BG Steven Schook	<i>Representative</i>	<i>NATO HQ Sarajevo Commander</i>
MG David Leakey	<i>Representative</i>	<i>EU Force Commander</i>
Amb. Martin Ney	<i>Representative</i>	<i>Senior Deputy High Representative, OHR</i>
Amb. Matthew Rycroft	<i>Representative</i>	<i>EU Presidency [UK Embassy]</i>
Amb. Shuvalov Konstantin Victorovich	<i>Observer</i>	<i>Embassy of the Russian Federation</i>
Amb. Douglas McElheney	<i>Observer</i>	<i>Embassy of United States</i>
Amb. Sina Baydur	<i>Observer</i>	<i>Organisation of Islamic Conference [Embassy of Turkey]</i>
Mr. Bruce McLane	<i>Observer</i>	<i>George C. Marshall Centre</i>
Mr. Slavko Marin	<i>Military Advisor</i>	<i>BiH Presidency</i>
Mr. Dragan Kapetina	<i>Military Advisor</i>	<i>BiH Presidency</i>
Mr. Mensur Delija	<i>Military Advisor</i>	<i>BiH Presidency</i>



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## **1. Executive Summary**

The Defence Reform Commission bases its recommendations on the continuing endeavour to secure credible Partnership for Peace candidacy for Bosnia and Herzegovina, the legal obligation of Bosnia and Herzegovina and entity institutions to work towards NATO membership as required in Article 80 of the Law on Defence, the 16 December 2004 letter from the NATO Secretary General to the Chairman of the BiH Presidency, the Commission's mandate contained in the High Representative's decision of 31 December 2004, and the BiH Presidency's decision of 23 February 2005 expressing commitment to obtain NATO membership.

The Defence Reform Commission's recommendations address two broad themes: the creation of *a single defence establishment and single military force* in Bosnia and Herzegovina under fully functioning state-level command and control; and, the restructuring of the Armed Forces of Bosnia and Herzegovina to meet the requirements of the foreign, defence and security policy aspirations of the state – specifically, collective defence and security. The underlying premise behind these two themes is the attainment of NATO standards in order to facilitate the integration of Bosnia and Herzegovina in Euro-Atlantic processes and organisations – principally Partnership for Peace and in the future NATO and the European Union; all while being sensitive to the unique circumstances of Bosnia and Herzegovina as a state with three constituent peoples and others and the need for its armed forces to belong to and protect all its peoples.

### ***A Single Defence Establishment***

The 2003 Defence Reform Commission recommendations envisaged two chains of command – administrative and operational – both culminating at the Presidency of Bosnia and Herzegovina with the state-level ministry of defence as the responsible executive branch of government. The resulting structure improved the previous arrangements whereby separate defence establishments existed prior to the enactment of the 2003 defence legislation. Regardless, control over the day-to-day running of the armed forces, however, remained at the entity level, which retained the majority of personnel, logistics, and training functions.

The state's authority in administrative areas was limited to setting standards, and by the end of 2004 it had become clear that attempts to exercise even this limited authority were meeting considerable institutional inertia. This situation, coupled with unrelated evidence that elements of the operational and administrative chains of command were not fully under either state or entity control, resulted in the Defence Reform Commission's current mandate to consolidate the two chains of command under full state-level control, to transfer remaining entity defence competencies to the state, and to close entity defence institutions.

The fulfilment of this mandate requires significant changes in the defence establishment, as reflected in the recommendations of the Defence Reform Commission, as the state cannot assume responsibility for personnel, logistics, and training functions without the addition of new capabilities. The current state-level structure was primarily designed to carry out operational tasks and would require relatively limited augmentation in this area; however, it was designed for very limited administrative tasks and would therefore require significant augmentation for such purposes. Staff for augmented state-level institutions would be drawn, whenever possible, from existing entity defence staff, but the future state-level institutions would not be as large as the aggregate of today's state and entity institutions. The rightsizing of current defence institutions is also a vital element of the package of reforms. It strikes to the very heart of affordability and efficiency and would make available valuable resources for other areas of defence and state priorities.

The recommended defence structures must also conform to political realities, most notably the requirement to ensure that future personnel, logistics, and training institutions are clearly separate from current entity institutions and under explicit state-level control. The recommendations of the Defence Reform Commission envisage that these new state-level responsibilities be exercised by new elements, providing for a reasonable span of control. Furthermore, the physical placement of defence institutions in Bosnia and Herzegovina must reflect a polycentric, geographically representative basis for the location of key elements. The decentralised placement of defence institutions is a standard practice followed in many major western countries. It is imperative, however,

that these institutions are only decentralised in geographical terms and are strongly linked with adequate communication channels, as they are collectively integral parts of the chain of command and its infrastructure.

After giving due consideration to all relevant factors, the Defence Reform Commission proposed a new command and control structure for the Armed Forces of Bosnia and Herzegovina above the brigade level. This structure retains the Ministry of Defence, Joint Staff and Operational Command, and adds a new Support Command. The Ministry of Defence would remain a largely civilian organisation responsible for overall strategy and policy, while the Joint Staff would continue to be responsible for translating those policies into detailed plans. The Operational Command, with command of all brigades and other deployable units, would have primary responsibility for the implementation of plans related to operations and collective field training (training of groups at the platoon, company, battalion and brigade levels). The Support Command, with subordinate elements for personnel management, logistics, and training, would have primary responsibility for the implementation of plans related to personnel management, logistics and individual “school house” training (recruit training, teaching of individual military skills, professional development – in general, the functions formerly assigned to the administrative chain of command).

The Defence Reform Commission proposed the full professionalisation of the Armed Forces of Bosnia and Herzegovina and a corresponding new concept for the reserve force. This concept envisages a reserve force that is 50 percent of the active force, with the task of providing the following reinforcements to the active force: individuals to fill planned or unplanned vacancies (i.e. positions left vacant to be filled when required, or positions left vacant because of illness or other unplanned events); platoons and companies to reinforce active units (e.g. infantry companies for infantry battalions); and specialist units to provide specific capabilities when required (e.g. medical units). Reservists would be grouped into two categories – a General Personnel Reserve, for individuals who would fill planned and unplanned vacancies; and, a Reinforcement Reserve, for individuals who would fill the companies, platoons and specialist units. Reservists would be drawn from two sources: directly recruited specialists; and, former

active duty soldiers who choose to join the reserves after completion of their active service.

There would be no requirement for conscription because all active duty soldiers would be recruited from volunteers. Conscription would no longer be required as a way of providing personnel for the Armed Forces of Bosnia and Herzegovina and the current conscription system would be terminated.

The size and training level of the reserve force is of course subject to affordability. In fact, it is probable that the Armed Forces of Bosnia and Herzegovina, both active and reserve, would reduce in size once the restructuring and professionalisation process is complete, but this smaller armed force would be far more effective. It would have shed obsolete and surplus weapons, equipment, ammunition, and doctrine. The armed forces would be comprised of well-trained and appropriately equipped units that contribute to collective security by providing suitable capabilities to alliances and partnerships. It would be able to provide military assistance to civilian authorities and be able to call upon a small, usable reserve force to bolster its capabilities. More importantly, the armed forces would be under direct state level control, meeting the foreign policy and security requirements of the state, and its members would be able to take pride in their profession.

The Defence Reform Commission's recommendations, if enacted, would sever the political link between the appointment of the minister of defence and general officers in senior command positions. The 2003 Defence Reform Commission recommendations prescribed a vertical distribution of positions across the constituent peoples of Bosnia and Herzegovina and between the Minister of Defence, Chief of Joint Staff, and Commander of Operational Command of Bosnia and Herzegovina. This could produce a situation whereby events in the state-level political arena affect the distribution of general officer positions within state defence institutions. These situations would arise at least every four years because of the electoral mandate of the government, but potentially in a democratic environment could occur more frequently if the government were to fall or parliament vote to dissolve itself. The advantages of de-linking these positions are two-fold: firstly, it offers more stability and continuity for the defence estab-

lishment and key general officer positions; secondly, it means that general officers need not be politicised – that is neither embroiled in party political politics within the government nor affiliated as a spokesperson for the nationality that they are purported to represent within the vertical distribution of posts.

Finally, the adoption of a regimental concept below the brigade level could complete the transition to a single defence establishment and single military force. Under this concept, the infantry elements of the two components of the Army of the Federation of Bosnia and Herzegovina (VF) and the Army of Republika Srpska (VRS) would be organised into three infantry regiments. Each infantry regiment would be comprised of three infantry battalions, and the total nine infantry battalions would be assigned to three multi-ethnic brigades – three battalions per brigade – so that each brigade has one battalion from each regiment. Command and control (i.e. for operational, training, administration and logistics) would pass from the Presidency of Bosnia and Herzegovina, Minister of Defence, and Chief of the Joint Staff to the Operational Command, down to the brigade headquarters and their subordinate battalions. The regiments would be the responsible for the preservation of military heritage and associated traditions originating from the VF and VRS, and each would have a small regimental headquarters to deal with these ceremonial and other regimental functions. The infantry regiments would be the only elements of the AFBiH whose lineage derived directly from the former entity armies. Other branches of service (e.g., artillery, engineers, signals, etc) would constitute single regiments whose sub-units would be formed from the existing units of the former VF and VRS. The Operational Command would then assign regimental sub-units to provide support to the manoeuvre brigades as needed.

As the brigade is the basic formation of NATO armies so shall it be for the Armed Forces of Bosnia and Herzegovina. With three brigades, the armed forces can focus on having one brigade as a “ready brigade” on a rotating basis, thus meeting a NATO requirement to have approximately 40 percent of the armed forces deployable. It is incompatible for Bosnia and Herzegovina to be a full member of NATO and have an international military force supervising and controlling the armed forces. The new brigade-based single military force with ma-

noeuvre brigade headquarters in Mostar, Banja Luka, and Tuzla, once fully operational, would allow for completion of the military aspects of the Dayton Accords and place Bosnia and Herzegovina in control of its own armed forces, without the need for international forces to enforce the military aspects of the Dayton Peace Agreement.

## ***Conclusion***

The 2005 Defence Reform Commission mandate aims to enhance reforms from 2003 and 2004 by establishing genuine state-level command and control over the Armed Forces of Bosnia and Herzegovina. At the same time, the mandate enjoins the Defence Reform Commission to refocus the armed forces in order to support the expressed foreign policy and security goals of Bosnia and Herzegovina, notably membership in the Partnership for Peace, NATO, and the European Union. These are complex and far-reaching goals, and the Commission believes that this report sets out the path to achieving them. However, the report is not enough in itself: the Presidency and Council of Ministers of Bosnia and Herzegovina will need the expertise and full support of all members of the defence establishment, and of the elected representatives of the people of Bosnia and Herzegovina, collectively to build a secure and prosperous future for all.

## **Key Facts**

### ***Command and Control***

- There is a single chain of command. It runs from the Presidency of BiH, acting on the basis of consensus, to the Minister of Defence, to the Chief of the Joint Staff, to the Commander of the Operational Command and Commander of Support Command, and through them to their subordinate elements.
- The Ministry of Defence, together with the Joint Staff, is responsible for policies and plans. Operational Command, Support Command, and their respective subordinate elements are responsible for implementing the plans and policies issued by the Ministry of Defence and the Joint Staff in accordance with the law and regulations.
- The BiH Parliamentary Assembly will retain its responsibility for parliamentary oversight of defence institutions in accordance with the Law on Defence of 2003.

### ***Conscription, Reserves, and Professionalization***

- The new Armed Forces of BiH will be comprised exclusively of professional personnel. Conscription will be abolished as of 1 January 2006. The obligation of conscripts for mobilization (age 40 in RS and age 60 in the Federation) will be abolished as of 1 January 2006.
- The conscript registries and other files related to military service currently held by municipal branch offices of the entity MoDs will be transferred to civilian municipal authorities so that any proof of training or other official documentation required by citizens will be available.
- The DRC recommends that the entities take the necessary steps to eliminate from their criminal codes any offences related non-fulfilment of obligatory military service and offer an amnesty to any persons who may not have, for whatever reason, fulfilled their military service obligation since 1992.
- The Passive Reserve force of 60,000 (40,000 Federation; 20,000 RS) organized in six divisions will be abolished from 1 January 2006.
- A new Active Reserve force will be established over the next few years and will be 50% of the active duty force. Its initial members will be recruited from the ranks of professional soldiers who have left service since 2002.
- The Active Reserve force will be staffed by professionals who have completed their active duty service and individual specialists recruited from the population and subjected to military training.
- Members of the Active Reserve will be expected to conduct periodic training each year, for which they will be paid.
- The Active Reserve will consist of elements that are sub-units of active duty formations, specialized units such as medical and Chemical/Biological/Nuclear/Radiological warfare reaction units, and individual specialists.

### ***The AFBiH Regimental System as a NATO-compatible Single Military Force***

- There will be three infantry regiments, each responsible for maintaining and fostering military heritage and identity of the units from which they are descended, meaning the ARBiH and HVO components of the former Federation Army and the former VRS.
- The other, smaller branches of the AFBiH, such as engineers, signals, and artillery, will be organized as single regiments and have units assigned in support of the three brigades.

- Members of each regiment will wear their regimental insignia on their left arm and the flag of BiH on the right arm. The names and insignia of the infantry regiments have yet to be approved and should have input from senior military officers.
- Regiments have no operational or administrative authorities. They have small regimental headquarters of less than 10 military personnel that handle ceremonial and other regimental affairs.
- Each regiment may have a regimental “colonel,” which is a strictly honorary role as the head of the regiment. The “colonel” is usually a senior military person of significance to the regiment and may be an active duty, reserve, or retired officer.
- Recruiting for the new all professional AFBiH will be from throughout BiH and based on vacancy announcements specifying the location, unit and regiment of each vacancy. Applicants are allowed to express their preference for the regiment and unit they wish to join, and they will be offered a place in that regiment and unit if it is available. If the vacancy is over-subscribed, then the candidate may opt to take a posting in a different regiment or unit, but in no case will a candidate be assigned to a regiment against his or her choice.

### ***The Active Duty Armed Forces of BiH***

- The size of the active duty AFBiH will be reduced by eliminating those positions currently involved with the training and administration of conscripts and the passive reserves. The size will be somewhere between 9,000 to 10,000.
- The AFBiH will consist of three manoeuvre brigades, one tactical support brigade, and one aviation brigade, all under the control of the Operational Command.
- The three manoeuvre brigades will each consist of three infantry battalions, one from each of three new infantry regiments.
- Each manoeuvre brigade will have supporting arms such as artillery, engineers, signals, etc.
- The brigade headquarters will be in Banja Luka, Tuzla, and Mostar, but battalions and units assigned to the brigade will be stationed throughout each brigade’s area of responsibility.

### ***Ethnic Representation in the AFBiH***

- The AFBiH belong to and should reflect the composition of BiH as a state with three Constituent Peoples and Others.
- The Three Constituent Peoples are equally represented in each senior decision-making level beginning with the Presidency and down to the Operational Command and Support Command.
- The Minister of Defence, Chief of the Joint Staff, the Commander of the Operational Command, and Commander of Support Command each have two deputies whose responsibilities are defined in the law. The principal and his deputies cannot be from the same Constituent Peoples.
- The Presidency shall be responsible for setting the levels of ethnic representation in the AFBiH, taking into consideration the constitution, laws, the last census, operational readiness, manning, morale, and cohesion of the AFBiH. They will pay special care to ethnic representation within non-infantry regiments to ensure they have minimum representation of each Constituent Peoples.

### ***Transfer of the Functions Performed by the Entity Ministries of Defence and Commands***

- The functions currently performed by entity Ministries of Defence and Commands will be either absorbed by the BiH Ministry of Defence or Joint Staff, or transferred to the new Personnel, Logistics, and Training and Doctrine Departments of Support Command.
- The entity ministries of defence and commands will be legally abolished on 1 January 2006. Those employed in them will become BiH employees and continue to carry out their work until new books of rules and consolidated position descriptions are developed in each functional area. This will be done on a phased basis and will take up to two years to accomplish.
- With the elimination of conscription there will no longer be a need for municipal or cantonal branch offices of the entity MoDs. However, all qualified personnel employed by the entity MoDs will be considered for the new consolidated positions in the BiH MoD and other institutions.
- Nominations and appointments to the new consolidated positions will be done through an internal mechanism as defined in the law. Only qualified personnel currently employed in the entity and BiH MoDs and institutions will be eligible for these appointments until the transformation process is completed.

### ***Defence Budget***

- There will a single defence budget at the level of the state from 1 January 2006.
- Stable funding for the next 3-4 years will be essential to implementing defence reforms.
- Defence spending has already dropped by 55% since 2002 and further cuts would seriously hamper defence reform.
- Funds that otherwise would be spent on conscription should be reinvested into the AFBiH to implement defence reform and improve the quality of life for soldiers.

### ***Timelines***

- Implementation will begin with entry into force of the new laws, but the first major milestone is 1 January 2006, when the entity MoDs and commands will be taken over by BiH defence institutions and the new single defence budget comes into effect.
- The Presidency will need to approve the new force structure, size, and distribution of the AFBiH by 1 July 2006.
- By 1 July 2007 the new brigade headquarters, their assigned infantry battalions, the new infantry regiments, and the regimental headquarters should have been established and in their stations.
- By 31 December 2007 all other branches should have established their regimental headquarters and be in their new stations.

## **2. Concept for 21<sup>st</sup> Century Armed Forces**

### ***Introduction***

It has been nearly a decade since the General Framework Agreement for Peace was initialled in Dayton, Ohio. In that time, Bosnia and Herzegovina has had to grapple with two major challenges. The first has been to rebuild after the devastating 1992-95 conflict. The second has been to transform itself from a post-communist, command economy into a modern parliamentary democracy with a market-based economy. No other transition state in Eastern Europe or South-Eastern Europe has had to face these combined challenges.

Over the same decade, the regional and global security situation has changed dramatically. The bi-polar world of the Cold War and the threat of global nuclear war gave way to a new multi-polar world characterised by trans-national security threats such as the proliferation of weapons of mass destruction, global terrorism and organized crime, cyber-warfare, and instability caused by failed states. All democratic states face these challenges, but no state has the ability to deal with any of these threats on its own. As they are global in nature, they must be addressed collectively.

At the same time, Bosnia and Herzegovina's regional position has improved. Neighbouring countries have seen democratically-elected governments replace autocratic regimes. These new governments are focused on Euro-Atlantic integration and seek good relations with Bosnia and Herzegovina. They have placed their armed forces under democratic, civilian control, greatly reduced them in size, and begun to reform them in their own efforts to join the NATO Alliance. Without a threat of conventional attack by a neighbour, Bosnia and Herzegovina can now focus on developing a 21<sup>st</sup> century defence force that will defend the state and its citizens through collective security arrangements, especially by membership in NATO.

NATO membership is the legal and political goal of Bosnia and Herzegovina, required by Article 80 of the state Law on Defence and by decision of the Presidency of Bosnia and Herzegovina. Therefore, the challenge of the Defence Reform Commission has been to find a way to develop modern forces that meet

NATO standards yet take into consideration the unique circumstances of Bosnia and Herzegovina as a state with three constituent peoples and others. The Commission also had to consider the fact that Bosnia and Herzegovina has limited resources for defence reform, so new structures have to be as efficient and sustainable as possible.

The international security forces that have provided the safe and secure environment Bosnia and Herzegovina needed to recover from conflict are drawing down. If Bosnia and Herzegovina is to become the normal country its citizens want it to be, then it must create the conditions whereby international military oversight is no longer necessary. To do this, Bosnia and Herzegovina must have modern, relevant, credible, and affordable forces that contribute to the stability and defence of the country and its citizens. The Armed Forces of Bosnia and Herzegovina must be a single military force if they are to be able to join NATO or take part in collective security operations. Brigades will therefore serve as the principal formation of the Armed Forces of Bosnia and Herzegovina. Brigades are compatible with NATO structures and can either serve as a self-contained formation in a larger operation or even incorporate forces from another state. There will be three manoeuvre brigades, a tactical support brigade, and an aviation brigade in the Armed Forces of Bosnia and Herzegovina.

The basic building block of a brigade is the battalion. It is likely that in future collective security operations single battalions or their sub-units may be deployed as part of multi-national brigades. Yet at whatever level units of the Armed Forces of Bosnia and Herzegovina may be employed, the security challenges of the 21<sup>st</sup> century require highly professional, skilled soldiers who can operate in the confusing environment of today's conflicts. This places a premium on unit cohesion and morale. For this reason, the Defence Reform Commission supports the conversion of the entity armies into three infantry regiments.

Regiments have no operational or administrative authorities, but they provide the basis for *esprit de corps*, morale and unit cohesion by preserving and developing military heritage and identity. They are "living" institutions that incorpo-

rate new traditions developed through recent experience – such as missions in Iraq or Eritrea – into existing traditions carried forward from ancestor units.

The new Armed Forces of Bosnia and Herzegovina of the 21<sup>st</sup> century are described in detail in the concept papers, graphics, and draft laws that are in this report. If parliaments pass the drafts into law, the process of transformation will take approximately two years to complete. At the end of the process, Bosnia and Herzegovina will have a single, modern, professional military force that belongs to, is reflective of, and supports the interest of all its peoples.

### ***Background: 2003 Defence Reform Process***

Defence reform has been a continuous process in Bosnia and Herzegovina since 1996. After a period of large-scale force reductions, it became both possible and necessary to consider the issue of state-level command and control over the armed forces. This was possible because of improvements in security and stability, and necessary because of Bosnia and Herzegovina's desire to join the community of Euro-Atlantic states – a community characterised, *inter alia*, by armed forces under democratic state control and directed towards the foreign policy and security objectives of the state.

The High Representative's decision to form the Defence Reform Commission in May 2003 accelerated the reform process. The Commission developed recommendations to strengthen state-level command and control over the armed forces. This work was undertaken in the context of Bosnia and Herzegovina's existing defence and security commitments – such as those applicable to participating states of the Organisation for Security and Co-operation in Europe (OSCE) – and was specifically focused on the steps necessary to obtain credible candidacy for membership in NATO's Partnership for Peace programme.

The Defence Reform Commission's recommendations addressed numerous weaknesses in the defence structures of Bosnia and Herzegovina, especially in the area of state-level command and control, democratic civilian oversight, compliance with international obligations, effectiveness, and efficiency. New legislation and amendments to existing laws at the state and entity levels embodied most of these recommendations. The goal of membership in the NATO

Alliance was established by provision of Defence Law of Bosnia and Herzegovina. The most visible result was the establishment of a state-level defence structure comprised of the Ministry of Defence – including a state-level Joint Staff – and an Operational Command.

Although the 2003 defence reforms were built upon the objective of achieving credible candidacy for membership in the Partnership for Peace, the attainment of credible candidacy status goes beyond the surface fulfilment of the NATO endorsed benchmarks. The measure of attainment depends on the actual application of legal provisions and functionality of implemented defence reforms, and not merely on the nominal completion of a checklist of tasks. The primary problem has remained that the application or attempted application of these reforms has highlighted the current weaknesses in the defence establishment. Those weaknesses have prevented the fulfilment of the principal intent behind the 2003 defence reforms – ensuring the full capacity of the State of Bosnia and Herzegovina to exercise command and control over its armed forces.

### ***Contemporary Security Environment***

One of the fundamental principles of statehood is the capacity to protect international borders in defence of sovereignty, territorial integrity and political independence. These principles are enshrined in the Constitution of Bosnia and Herzegovina and the current State Defence Law. Moreover, an integral element of the fabric of a state is the capacity to enter into relations with other countries and thus have a defined foreign policy – a legal principle also contained in the Constitution of Bosnia and Herzegovina.

In the contemporary global security environment, however, the importance of traditional security considerations, such as the role of armed forces in defence of territory and sovereignty, unilateral security and defence arrangements, and the individual military capacity to fulfil this role has dwindled in favour of collective defence and security mechanisms and organisations. Furthermore, the high costs of maintaining large military establishments capable of dealing with all threats have led many states to favour multi-lateral defence and security arrangements over traditional, unilateral efforts. In short, the need for large offen-

sive or defensive military capabilities has dwindled significantly. Globalisation and the rise of non-state actors and associated multi-faceted, trans-national threats – such as terrorism and organized crime – have led countries to combine defence, security, and intelligence efforts, leading to the expansion of NATO and of co-operative security arrangements. Armed forces, therefore, have become part of a broader approach to collective defence and security not only concerned with the safety and welfare of the state and its citizens, but also with global aspects of security.

Bosnia and Herzegovina has taken a number of positive steps to address the risks of the contemporary global security environment. The formation of the State Information and Protection Agency (SIPA) as a key operational division of the Ministry of Security has established a major organisation in operational policing at the state level to fight organized crime, international terrorism and illegal migration. The State Border Service (SBS) provides the capacity to control the international borders of Bosnia and Herzegovina, particularly against smuggling, crime, and illegal migration. Together with the establishment of the Intelligence and Security Agency of Bosnia and Herzegovina, providing a state-level intelligence capacity, the Armed Forces of Bosnia and Herzegovina as a professional single military force and structured commensurate with legitimate defence and security needs will provide Bosnia and Herzegovina with the means to address the challenges of the contemporary global security environment.

The concept of collective defence and security is entrenched in the broader foreign, security and defence policies of Bosnia and Herzegovina. A well-documented and fundamental component of the security policy of Bosnia and Herzegovina, and thus an implicit element of its foreign policy, is the aspiration to integrate into Euro-Atlantic organisations and processes, principally the Partnership for Peace programme and eventually NATO and the European Union. The Armed Forces of Bosnia and Herzegovina are instruments of the state and therefore must be capable of supporting and sustaining these policies; however, in their current composition the armed forces do not and cannot fulfil this role. Moreover, Bosnia and Herzegovina's current defence arrangements and structures are based on outdated premises that no longer apply to the region or

indeed to the country itself. In the contemporary security environment, Bosnia and Herzegovina does not need conventional armed forces aimed exclusively at suppressing an invading armed force or for territorial defence. Furthermore, the state cannot afford to maintain a large-scale conventional, mechanised force, with large amounts of conscripts and reserves that contribute little military value to its capabilities. These current arrangements offer no security guarantees and are of little use to NATO. Rather, NATO requires its members to provide relevant, credible, and sustainable forces that are mobile and deployable.

Furthermore, for Bosnia and Herzegovina the geopolitical environment is unquestionably stable: virtually every country in Europe is a member of NATO or Partnership for Peace; most have close economic ties, and the majority are even more closely linked through the European Union. Within the sub-region, there has been significant improvement in the security environment: governments in the region are democratically elected and their militaries placed under civilian control; some countries are already members of NATO or Partnership for Peace, and all others are committed to becoming part of the NATO/Partnership for Peace family as soon as possible. Furthermore, all countries in the region have identified accession to the European Union as a primary foreign policy goal. In this environment, there is no risk of conventional attack and no direct threat to territorial integrity and sovereignty.

### ***Reforms for Collective Security***

Bosnia and Herzegovina is already on the doorstep of the Partnership for Peace, and although partnership does not bring the same treaty guarantees as full NATO membership, it is a first step in that direction. The key to achieving indisputable military security is to become a member of NATO, since Bosnia and Herzegovina's territorial integrity and sovereignty would then be guaranteed by the entire Alliance.

If Bosnia and Herzegovina is to join NATO, its armed forces must offer capabilities that would support the collective defence effort. In particular, it is clear that NATO will not accept Bosnia and Herzegovina into the Alliance with two armies and three ministries of defence. NATO, therefore, has encouraged Bosnia and

Herzegovina to make continued progress towards achieving a single military force – as stated at the June 2004 NATO summit and subsequently by the Secretary General to the Presidency of Bosnia and Herzegovina.

Addressing this requires a serious and intensive re-organisation of the current structure and capabilities of the three brigades of the Armed Forces of Bosnia and Herzegovina. This re-organisation should focus on developing units that meet the needs of Bosnia and Herzegovina but also are suitable for collective security operations that meet NATO needs. Examples include general purpose light infantry that can perform constabulary missions and explosive ordnance destruction and de-mining units, which Bosnia and Herzegovina has special expertise in but which are in short supply in NATO member forces. This requires the re-organisation of the current brigade structure, particularly so the armed forces can focus on having one brigade as a “ready brigade” on a rotating basis, meeting a NATO requirement to have approximately 40 percent of the armed forces deployable.,

Since Bosnia and Herzegovina cannot afford to maintain a large standing force or rarely used specialist units, the reserve force must be restructured to produce usable reinforcement elements for the Armed Forces of Bosnia and Herzegovina at a relatively low cost. For example, reserve infantry companies and platoons could reinforce active infantry battalions; reserve specialist units (e.g. construction engineers or civil-military co-operation) could be activated when those capabilities are required; or individual reservists could provide specific specialist capabilities (e.g. communications) to active units. The reserve force could be filled by former professional soldiers who have transferred to the reserves upon completion of their active service and by directly recruited reservists.

This means dispensing with the current conscription and reserve structure, which consumes approximately 53 million KM each year – nearly one-fifth of the 2005 defence budget – producing soldiers who are neither well-trained nor well-equipped, who provide no security for the citizens of Bosnia and Herzegovina, and who cannot perform any valid mission. [The current system produces poor results because it is under-resourced. It is not possible for Bosnia and Herzegovina to provide the financial resources necessary to produce a viable con-

scription system or conscript-based reserve force.] Conscription must therefore end, transforming the Armed Forces of Bosnia and Herzegovina into a professional force with active duty reserve personnel, recruited, trained, equipped and paid to standards commensurate with professional military service.

The transition of the Armed Forces of Bosnia and Herzegovina towards a modern armed force structure under full state-level command and control is thus a political, military and economic necessity. This remains the principal long-term rationale behind the recommendations of the Defence Reform Commission and the full assumption of defence competencies from the entities by state institutions.

### ***2005 Defence Reform Commission Recommendations***

The 2005 mandate of the Defence Reform Commission specifically addresses the functioning of all defence institutions, the capacity to exercise command and control, and the ability of the defence and security structures to assist in the fulfilment of the international obligations of Bosnia and Herzegovina. This implicitly includes the capability of those structures, particularly the armed forces, to sustain the defence and security policies of the state: principally, attainment of membership in the Partnership for Peace and eventually as part of the NATO Alliance.

On 16 December 2004, the NATO Secretary General wrote to the Chairman of the Presidency of Bosnia and Herzegovina concerning these issues. He noted that further systemic reforms would be needed to facilitate the fulfilment of the Partnership for Peace benchmark relating to co-operation with the International Criminal Tribunal for Former Yugoslavia (ICTY). Furthermore, the NATO Secretary General stated that this would necessitate further measures to strengthen state-level command and control through the assumption of existing entity defence competencies by the state.

It is important to understand that these are not additional Partnership for Peace benchmarks. The 2005 mandate of the Defence Reform Commission should be understood as an extension to those benchmarks. The intent is not to add new steps to be undertaken, but rather to ensure that the 2003 recommendations

are fulfilled in the manner that was intended: to establish genuine state-level command and control over the Armed Forces of Bosnia and Herzegovina.

The High Representative highlighted this rationale in his statement of 16 December 2004, in which he responded to events that had manifested themselves as symptoms of systemic weaknesses in Bosnia and Herzegovina's security structures. These events derived directly from the lack of control by the state over its armed forces. The Peace Implementation Council Steering Board also indicated this in its statement on 03 February of this year, stating that there are fundamental systemic weaknesses built into security structures in Bosnia and Herzegovina that must be addressed if the country is to fulfil its international obligations.

Furthermore, in March of this year, following investigations into systemic weaknesses in command and control of the armed forces, the Ministry of Defence of Bosnia and Herzegovina submitted a report to the High Representative detailing findings and proposed measures to strengthen command and control over the armed forces. Many of these findings and measures correlated with those in the 2003 Defence Reform Commission report.

Lastly, a major premise and element of the rationale behind the recommendations of the Defence Reform Commission is Bosnia and Herzegovina's commitment to become a full member of the NATO Alliance, as reiterated by the Presidency of Bosnia and Herzegovina in February of this year. The Defence Reform Commission report of 2003 stated that additional reforms would be needed in the future to meet NATO standards. Indeed, the recommendations of the Commission at that time envisioned possible options for future reforms and endeavoured to ensure that those recommendations would facilitate future changes. The recommendations of the Defence Reform Commission in 2005 follow this reasoning. The recommended legislation (a new Defence Law of Bosnia and Herzegovina, a new Law on Service in the Armed Forces of Bosnia and Herzegovina, and amendments to key entity legislation) provide for structures that would conform to NATO standards and would further realise the determination of Bosnia and Herzegovina to become a full member of the NATO Alliance. Moreover, the development of the regimental system provides a framework for a

single military force – a key component of NATO requirements for future integration.

The recommendations of the Defence Reform Commission thus clearly follow an established rationale and objective: to secure full state-level command and control over the armed forces; to develop armed forces that are commensurate with legitimate defence and security needs; and, to establish a structure of the armed forces that would allow for future integration into first Partnership for Peace and later the NATO Alliance.

### **3. Concept and Information Papers**

This section presents a series of concept and information papers that have formed either the basis of integral parts of the legislative recommendations or rationale supporting them. The Regimental System Concept Paper is presented as originally distributed, with a few minor linguistic amendments. The Reserve Concept Paper and Conscription and Reserves Information Paper have been shortened from their originally distributed versions to contain key facts identifying the rationale behind the Defence Reform Commission's recommendations.

#### **3.1. Regimental System Concept Paper**

##### **1. Aim**

The aim of this concept paper is to describe how a regimental model could be employed to create a NATO-compatible single military force for Bosnia and Herzegovina.

##### **2. Background**

It is the stated and legally defined goal of Bosnia and Herzegovina to join NATO. NATO has made clear that the country will need to transform its armed forces into a single military force before it can join the Alliance. At present Bosnia and Herzegovina has three essentially mono-ethnic brigades in operation. Given the constitutional provisions for three constituent peoples [and others] within Bosnia and Herzegovina, the challenge for the creation of a single military force is how to achieve this while still preserving military heritage and identity.

This paper describes a solution for maintaining military heritage and identity within a single military force through the adoption of a regimental system that is in keeping with the multi-ethnic constitution and laws of Bosnia and Herzegovina. Most importantly this concept is consistent with a single, unified chain of command, which remains a fundamental requirement for the country's defence system.

### **3. Towards a Single Military Force for Bosnia and Herzegovina**

#### *Concept for a Basic Military Structure of Bosnia and Herzegovina*

In order to meet NATO requirements, the elements of the Armed Forces of Bosnia and Herzegovina force structure must be modular, deployable and, for elements of the same branch of service, interchangeable.

To achieve these characteristics, the Armed Forces of Bosnia and Herzegovina will use the standard brigade structure, comprised of three infantry battalions and appropriate supporting elements, which is the basic foundation of all NATO forces. Brigade headquarters will be staffed with personnel from several regiments and branches. This ensures that the Armed Forces of Bosnia and Herzegovina are able to draw upon the best candidates for headquarters positions while achieving a balanced mixture of subject matter experts required at the brigade command level.

As in other NATO nations, the brigades report to a single chain of command. The level above the brigades will be the Operational Command. The Joint Staff will provide the higher military level of command for the armed forces, based on the direction from the Ministry of Defence and ultimately the Presidency as Commander-in-Chief of the Armed Forces of Bosnia and Herzegovina. One code of military discipline will apply to all members of the armed forces.

To ensure the flexibility required of brigades in a variety of roles and tasks, battalions will be standardized to the greatest extent possible. Equitable distribution of equipment, personnel and support resources will be fundamental in enabling brigades and their respective battalions to achieve fully deployable status within the NATO context.

The nature of modern military operations, particularly participation in collective security operations, demands highly modular forces. For example, a Bosnia and Herzegovina battalion may be required to integrate into a multinational brigade or battalions from other nations may serve within a Bosnia and Herzegovina brigade. The brigade structure remains the best way to achieve this.

### *Managing Brigade Resources*

Bosnia and Herzegovina brigades will be allocated sufficient internal resources within each of their respective battalions to achieve training and mission goals. These resources will be equitably distributed among all the country's brigades and battalions. The development and use of standard tables of organization and equipment, specifying the nature and quantity of materials required to sustain each battalion, will be fundamental in ensuring a balanced and modularized force. This concept will apply to all branches of service.

Brigades will manage essential day-to-day tasks and battalions will follow the direction from their brigades in this regard. These tasks include:

- (i) Battalion training and readiness;
- (ii) Maintenance of working copies of personnel training records;
- (iii) Supply of basic soldier equipment and clothing;
- (iv) Management of internal troop transport resources;
- (v) Storage and security for battalion weapons;
- (vi) Management of feeding and accommodation facilities.

These tasks will be conducted under the policies, plans and directives issued by higher echelons of the chain of command (Ministry of Defence, Joint Staff, Operational Command and Support Command), which collectively provide the framework for:

- (i) Training and standards;
- (ii) Recruitment;
- (iii) Pay and personnel management;
- (iv) Military service law; and,
- (v) Scales of equipment.

Weapons will be assigned to each battalion in accordance with the specific battalion's role. In the case of an infantry battalion this includes small arms, crew-served weapons such as machine guns in addition to anti-armour weapons and mortars. Weapon storage would normally be located in battalion garrisons.

The same general approach will apply to other equipment such as vehicles, radios, etc.

### *Recruiting and Personnel Practices in the Bosnia and Herzegovina Single Military Force*

The attraction, processing and retention of personnel are essential features of a professional and sustainable military force. Recruitment will be centrally managed throughout the country and all recruits will enter on a voluntary basis. Candidates for the Armed Forces of Bosnia and Herzegovina will be recruited on the basis of announced vacancies in regiments and then undergo basic military training. Upon the completion of basic military training the recruit is given the opportunity to choose which regiment to join.

As in all professional armies, not all recruits can be expected to complete basic military training and so more people must be recruited than there are vacancies. Thus it is possible that once a recruit completes basic military training there may be more candidates for a particular regiment than there are vacancies in that regiment. While every effort will be made to accommodate the candidate's initial choice, placement will be based on the overall needs of the armed forces. If an initial choice cannot be fulfilled, a recruit will be offered a position in another regiment or branch based upon vacancies. At this point a recruit may choose to delay entry and wait until a vacancy occurs in the regiment of first choice or the recruit may opt to be released from the service with no further obligation. This system will ensure a transparent and fair method for individual entry into the Armed Forces of Bosnia and Herzegovina.

Personnel management will be based on a centralised personnel system. Each individual's complete military file will be centrally held and managed in order to facilitate decisions ranging from inter-battalion transfers (usually within the battalions of a given regiment) to special assignments to the overall need for maintaining balanced forces throughout Bosnia and Herzegovina. A centralised system has significant value in terms of overview, and, in addition, provides a cost efficient method in eliminating duplication of effort. However, individual battalions will maintain working copies of their members' personnel records.

This is done for the practical reason of ensuring that information on an individual's training cycle is accurately recorded. An appropriate mechanism will ensure regular updating of central files, including provisions for oversight.

#### **4. Adoption of a Regimental Model for the Armed Forces of Bosnia and Herzegovina**

The brigade structure addresses basic structural operational requirements but it does not address the need to maintain a military heritage and identity. To meet this need, the armed force's nine infantry battalions will be grouped for ceremonial and military heritage purposes into three regiments of three battalions each, within which military heritage and identity will be preserved.

This system will replace the current arrangement of three mono-ethnic brigades organized as components, which prevents Bosnia and Herzegovina from being a viable candidate for NATO membership. Regiments are purely ceremonial organisations and unlike brigades have no operational, training or administrative roles. Brigades are the "business" organisations comprised of one battalion from each regiment (three battalions per brigade) and appropriate supporting elements.

Battalion and brigade locations will be managed in a way that places the permanent peacetime stations of one of the regiments in the territory of Republika Srpska, and the other two regiments in the territory of the Federation of Bosnia and Herzegovina. As consistent with a single military force there will be no restriction on the movement of battalions for training or operational purposes as approved by the chain of command.

A regimental system embodies the historical military lineage of the component from which it is descended. It reflects symbols and accomplishments with which soldiers identify and maintain the regimental heritage. A member of a regiment will usually retain a life-long association with his regiment following retirement from active service, and may continue to participate in regimental affairs. Regimental systems have been in operation for centuries inculcating soldiers with regimental pride and responding flexibly to the changing demands of the military.

During the transition to the regimental system issues such as naming conventions, numbering and affiliated military lineage for regiments and battalions will be drawn from existing forces - subject to the approval of the single chain of command and in accordance with the constitution and laws of Bosnia and Herzegovina. In terms of regimental insignia, the same method will be used in accordance with prevailing laws, court rulings and direction from the chain of command. A possible regimental configuration for Bosnia and Herzegovina is displayed in Section 5.6 of this report, demonstrating the concept of retaining the military heritages and identities in the country's armed forces.

NB: Although this paper focuses on the infantry, the other branches of service will also adopt a regimental system. In this case members of each branch form a single regiment of the Armed Forces of Bosnia and Herzegovina - such as artillery or engineers. The elements of these regiments will be allocated to brigades in the same way that infantry battalions are allocated. The same considerations – deployability, modularity, interchangeability – will apply.

#### *Regimental Composition, Structure and Functions*

Regiments will maintain a physical presence through the establishment of a Regimental Headquarters. A regimental major who is supported by a small staff of five to six personnel will command the Regimental Headquarters. Regimental Headquarters staff will be assigned to one or more of the key regimental functions including:

- (i) Management of the regimental museum;
- (ii) Control of the regimental fund (used for ceremonial purposes e.g. purchase of trophies for sporting competitions);
- (iii) Preparation, research and maintenance of regimental history;
- (iv) Preservation of regimental artefacts;
- (v) Guidance on conduct of special ceremonial events;
- (vi) Direction on regimental custom, dress and deportment; and,
- (vii) Operation of the Officer's, NCOs and Junior Ranks Messes.

In the regimental system, the regimental “colonel” serves as the honorary head of the regiment. This individual, usually a former member of the regiment, presides over all significant regimental celebrations and occasions. They also serve as an independent and impartial voice for advice on regimental affairs. This position is strictly voluntary and the position is held in high esteem.

The regiment is the military element that provides direction and advice on all issues related to ceremonial, custom, heritage and national or historic events. It is critical to understand that a regiment has no operational status and does not issue operational orders. This “separation of powers” will ensure the primacy of the chain of command, from the Ministry of Defence to Joint Staff to Operational Command to brigade and battalion. In conclusion, the purpose of a regiment is to preserve military heritage and identity as well as provide continued support in the maintenance of soldier morale.

#### *Regimental Communications*

Communications with regimental members will play a vital role in ensuring that all members are kept informed about important ceremonial occasions, membership activities and social events. Other armed forces using the regimental system use newsletters and annual reports to convey this type of information in a managed fashion, although “word of mouth” remains an effective communication tool too. The phrase “regimental family” often used in communications, conveys the genuine sense of belonging that exists among regimental members.

#### *Regimental Location, Equipment and Holdings*

Each regimental headquarters will be located alongside one of the battalions of that regiment, possibly at the same location as the brigade headquarters. Selection of regimental sites will depend on many factors such ease of access or a location of regimental significance. Due to the small size of a regimental headquarters staff accommodation requirements are minimal. The need for space to accommodate a regimental museum and possible mess facilities however remain important considerations. Regimental headquarters are important as they allow soldiers to identify with a regimental home, and other

regimental symbols such as museums and mess facilities, which encourage regimental pride and loyalty.

### *Interaction between the Personnel Management and Regimental Systems*

Upon completion of basic training, new recruits will be given the opportunity to enter a regiment of their choice. As discussed earlier, respect for individual choice will be a key feature of the Armed Forces of Bosnia and Herzegovina, and no individual will ever be forced to join a regiment not of their choice. Individuals will be attracted to regiments for a wide variety of reasons although proximity to home and friendships will most likely remain the key factors when deciding on regimental affiliation.

## **5. Conclusion**

Defence reform in Bosnia and Herzegovina has strived for viable solutions to accommodate a standardised, single military force capable of representing the interests of all citizens. The aim of creating a single military force that also embodies military heritage and identity has, so far, remained an elusive goal.

However, the concept of a regimental system as described in this paper provides a means for achieving this goal. The regimental model allows for a single military system that meets NATO standards of operational readiness as well as representing military heritage and different identity. The regimental system has proven to be a successful military model in fostering pride in service and heritage. It provides hope for the future.

## **3.2. Reserves Concept Paper**

### 1. Aim

The aim of this paper is to describe how the reserve element of the Armed Forces of Bosnia and Herzegovina will contribute towards the attainment of a professional, relevant and sustainable military capability that can contribute meaningfully to collective security operations in the context of alliances and partnerships.

### 2. Background

The current conscript-based reserve system does not meet the future requirements of the Armed Forces of Bosnia and Herzegovina. This system consumes nearly 20 percent of the defence budget and produces large numbers of poorly trained ex-conscripts, who receive no refresher training and who are structured in divisions that exist only on paper: Bosnia and Herzegovina does not possess the resources to equip and train such a force in a realistic manner, and so the money spent on it is simply a waste of limited resources. The current reserve system is both unsustainable and inappropriate to the future requirements of the Armed Forces of Bosnia and Herzegovina.

The Defence Reform Commission has concluded that the future armed forces should be a professional army of volunteer soldiers, structured and trained to meet NATO expectations, requirements and standards. This requires the development of well-equipped and well-trained units that can provide general purpose combat capabilities, “niche” capabilities (such as de-mining or military police units), or a mixture of both. The reserve element of the Armed Forces of Bosnia and Herzegovina must therefore fit this context.

### 3. Discussion

In former times the typical role of a reserve force was to bring the army to full wartime strength by producing additional divisions or brigades. This model was extensively used in many NATO nations and it still forms the basis for the current Bosnia and Herzegovina reserve force. It is expensive to maintain such

reserve forces because they require funding for adequate training and equipment. If they are not adequately funded then the reserve force serves little purpose. Furthermore, this reserve model, based on total mobilisation and large-scale conflict, does not meet the country's current security policy requirements, and does not meet any operational requirements of NATO.

Throughout NATO allies today the basic mission of the reserve force is to reinforce the active force with additional trained personnel and/or additional units. Reservists contribute to operational readiness by complementing the operational capabilities and improving the sustainability of the active forces. There are two general ways in which this can be done: by using individual reservists to fill individual vacancies in active units; and by using groups of reservists, organised and trained in those groups, to provide platoons, companies or units to the active force. In either case there is no need, and no role, for large reserve divisions or separate reserve commands.

1. In the case of individual vacancies, vacancies can be planned, so that active units have vacant positions that are only filled by a reservist when the specific need exists (e.g. extra medical personnel for operational deployments); or unplanned, so that reservists are used to fill positions in active units that have become vacant due to unforeseen circumstances (e.g. casualties).
2. In the case of organised and trained groups of reservists, all vacancies would be planned: active battalions would have vacant positions for reserve platoons or companies to fill when required (e.g. platoons or companies); or specialist reserve units would provide specific capabilities to the active force when required (e.g. Explosive Ordnance Disposal Unit).
3. This approach requires a relatively small number of reservists, no greater than one-half the size of the active force, and possibly much less than that, given that the overall role, size, structure and equipment of the reserves depends on the economic sustainability of the armed forces as a whole. This small reserve force means that like the active force, all reservists can be volunteers, as is the current trend in NATO.

4. These volunteers can be recruited directly into the reserve, or they can be chosen from members of the active force who wish to serve in the reserves after they have completed their obligation for active service. As members of a professional force, reservists must receive pay and benefits sufficient to attract and retain the required quantity and quality of personnel.
5. The reserve element of a professional military force must be trained to standards that will allow reservists to function effectively when they reinforce the active force. Most NATO nations have adopted systems that provide reservists with appropriate initial training and periodic follow-on training – for example, one-two weeks per year. As with all other defence considerations, the frequency, duration and complexity of such training depend on affordability.

#### 6. Concept

The reserve force of the Armed Forces of Bosnia and Herzegovina will be structured, equipped and trained to provide the following reinforcements to the active force:

- a. Individual reinforcements to fill planned vacancies in active units;
- b. Individual reinforcements to fill unplanned vacancies in active units;
- c. Platoons and companies to fill planned vacancies in active units; and
- d. Specialist units to provide specific capabilities to the active force.

The reserve force will be no larger than one-half the size of the active force. Its size and structure will be regulated by the Presidency of Bosnia and Herzegovina as part of the overall armed forces structure.

Reservists will be recruited from two sources: certain specialists (e.g. doctors) will be recruited directly into the reserve force; but the majority of reservists will be members of the active force who wish to serve in the reserves after leaving the active force.

Reservists will be grouped into two categories: a *reinforcement reserve* to provide individuals, platoons, companies and specialist units to fill planned vacancies; and, a *general personnel reserve* to provide individuals to fill unplanned vacancies.

Reservists will receive initial training (for directly-recruited specialists) and periodic refresher training within the limits of the resources available to the Armed Forces of Bosnia and Herzegovina. Similarly, reservists and reserve units will be equipped to the extent possible within the overall context of the requirements and resources of the armed forces. The *reinforcement reserve* will be the first priority for equipping and training the reserve force.

The reserve force will not be grouped under a separate command. Its personnel management functions will be carried out by the Support Command, and its members and units will be controlled by the Operational Command for refresher training or operations.

## 7. Conclusion

A small, focused reserve force of the type described in this concept will enhance the capabilities of the Armed Forces of Bosnia and Herzegovina enabling Bosnia and Herzegovina to achieve its security objectives through the establishment and maintenance of professional and relevant armed forces.

### **3.3. Conscription and Reserves Information Paper**

#### 1. Aim

The aim of this paper is to describe the current organisation and structure of conscription and reserves in the Federation of Bosnia and Herzegovina and Republika Srpska.

#### 2. Background

Until 1992 the defence of the SFRY was based on a concept of “total defence,” whereby every able-bodied male was liable for twelve months of conscript service and had a continuing liability for service in the large reserve force until the age of sixty. Mobilisation plans were developed at the state ministry of defence level, and the requisite individual records were maintained at municipality offices. These offices were responsible for the call-up of conscripts, the maintenance of records, and the maintenance of registries of all material and resources (factories, transportation assets, even livestock) that might be needed for total defence. The current conscript and reserve structures in Bosnia and Herzegovina are largely derived from these arrangements.

The scope of conscription in the Armed Forces of Bosnia and Herzegovina is defined by the Presidency of Bosnia and Herzegovina Decision on the Size and Structure of the Armed Forces of Bosnia and Herzegovina (number: 01-414-6/04, 24 March 2004). This decision specified a yearly contingent of 12.600 conscripts: up to 8.400 in the Army of the Federation of Bosnia and Herzegovina and up to 4.200 in the Army of Republika Srpska. The ceiling for conscripts in the Army of the Federation of Bosnia and Herzegovina includes up to 6.416 members of the Bosniak component and 1.986 members of the Croat component. The decision also established the size of the Armed Forces of Bosnia and Herzegovina reserve force at 60.000: 40.000 in the Army of the Federation of Bosnia and Herzegovina and 20.000 in the Army of Republika Srpska.

## **Federation of Bosnia and Herzegovina**

Conscripts are called up in contingents of 1.400 every two months, for a four-month period of service, through a system of eight-nine field offices at the cantonal and municipal levels. During that time, conscripts are trained for two months at one of six training centres (there are five for the Bosniak component and one for the Croat component). During the second part of their service, conscripts are mainly used as a labour force and for guard duties. They receive only basic military training and working and living conditions are substandard, due to severe financial constraints (conscripts are sent home every weekend in order to reduce costs). These limitations mean that the conscription process does not produce a trained military force. Furthermore, the number of persons who have completed conscript service and are thus nominally part of the reserve (56.666 since 1999) exceeds the number of reservists authorised for the Federation of Bosnia and Herzegovina (40.000), so there is no requirement for further conscript call-ups.

The direct costs – administration, clothing, food, accommodation, insurance, and training – of conscription within the Federation of Bosnia and Herzegovina are estimated at 13.8 million KM. Indirect costs – staff for the field offices (623) and training centres (706) – are estimated at 24.6 million KM (11.1 million KM for the field offices and 13.5 million KM for the training centres). These figures do not include the costs of running the training centres (fuel, maintenance, ammunition, etc.). The estimated total cost of conscription in the Federation of Bosnia and Herzegovina is therefore in excess of 38.4 million KM, including nearly nine per cent of the active force strength employed in training centres and sixty-five per cent of Ministry of Defence staff employed in the field offices.

The reserve force that is produced by this system requires 379 active personnel at an annual cost of 7.5 million KM. The overall cost of conscription and reserves in the Federation is therefore in excess of 46 million KM. This expenditure provides no security benefit, because the conscripts are poorly trained and the reserves receive no additional training.

## **Republika Srpska**

Conscripts are called up twice a year in batches of around 1, 400, and serve for four months. Sixty field offices oversee the conscription process. The recruits are trained at two centres, although their training is insufficient to give them anything but the most basic, low-level military skills. After basic training, the conscripts are mostly used as a guard force or as labourers, and their poor working and living conditions are detrimental to their military efficiency. On 17 March 2005, the Minister of Defence of Republika Srpska noted that “during the four month training, conscripts did not perform any additional duties, except for the training that was conducted in accordance with Conscript Training Plan and Program”.

The direct costs of conscription in Republika Srpska, which include training, administration, accommodation, food and heating, are estimated at 3 million KM for 2005. The indirect costs of staffing the field offices (312 staff) and training centres (144 staff) are around 5.9 million KM. The total cost of conscription is therefore at least 8.9 million KM, which makes up around thirteen percent of the total Republika Srpska defence budget.

The reserve system of Republika Srpska consists of 658 professional military staff (16.5 percent of the active force) and a paper strength of 20,000 reservists. No training is conducted by the reserves and their military value is negligible. The personnel costs alone of the reserves are around 7.8 million KM per year, giving a total estimated cost for conscription and reserves of 15 million KM – twenty-two percent of the entity defence budget for 2005. This does not include the costs of the real estate and equipment required for training centres, ministry of defence field offices and reserve units.

## **Conclusion**

Forces based on compulsory military service are mainly suited for territorial defence purposes, as a generally acknowledged international principle. No NATO country deploys conscripts abroad unless they have specifically volunteered for such service. Conscript forces would be almost useless for the most likely future missions of the Armed Forces of Bosnia and Herzegovina

because there is little possibility for large conscript contingents to take part in peace support missions.

At a time when Bosnia and Herzegovina is making every effort to join NATO's Partnership for Peace Programme and to eventually become a full NATO member, the country has little use for the old style total defence system. Today Bosnia and Herzegovina needs affordable, capable, well-equipped mobile armed forces – including small, capable reserve forces – which are compatible and interoperable with NATO forces. The defence of Bosnia and Herzegovina should be based on the principle of collective security that integration into Euro-Atlantic security structures will provide.

## **4. Legislative Recommendations**

### **4.1. Legal Basis**

A state, as a fundamental tenet of statehood, must have the capacity to project and defend its sovereignty, territory, political independence, and international personality. An important aspect of this capacity is the means to preserve, and more importantly, to sustain these factors and project its personality in the contacts that it has with other states. A fundamental extension of this, as recognised by international law, is that a state must have the capacity to enter into foreign relations with other states. Accordingly, this implies that a state must have the capacity to define foreign policy that would determine the relationships it has with other states. International personality is thus a key component of a state. An integral aspect of the means to preserve international personality is also the protection of territory, sovereignty and political independence. These premises are reflected in the Constitution of Bosnia and Herzegovina. Based upon these, the Constitution of Bosnia and Herzegovina provides the legal basis for the new Defence Law of Bosnia and Herzegovina and the Law on Service in the Armed Forces of Bosnia and Herzegovina. This basis is contained explicitly and implicitly within its provisions.

From an explicit perspective, the state constitution provides the following basis for the Defence Reform Commission's legislative recommendations. Article III.5 envisages the state competency for the preservation of sovereignty, territorial integrity, political independence, and international personality. Additionally, this article provides that the state can assume such responsibilities as are necessary to fulfil these tasks. Furthermore, Article III.5 also envisages that additional institutions may be established as necessary to carry out such responsibilities, which provides the basis for the recommendations to expand state-level institutions to fulfil the assumption of defence competencies. The commitment to the preservation of the sovereignty, territorial integrity and political independence is also found in the preamble of the constitution.

From an implicit standpoint, the state constitution offers the following foundation for the Commission's legislative recommendations. Article III.1 determines

that foreign policy is the responsibility of the institutions of Bosnia and Herzegovina. The conduct of foreign policy also includes consideration of a state's ability to defend its borders and to project force abroad. Consequently, the conduct of foreign policy and the full command and control of armed forces are both necessary elements for preserving the sovereignty, territorial integrity and political independence of the State of Bosnia and Herzegovina. Furthermore, clearly an expressed goal of Bosnia and Herzegovina's security policy is collective security – primarily through Euro-Atlantic organisations. Accordingly, an integral part of the foreign policy of Bosnia and Herzegovina is its quest to integrate into NATO, its processes, and the European Union. The Armed Forces of Bosnia and Herzegovina is an instrument of the state and therefore must be capable of supporting and sustaining these policies; thus, the state must have the full capacity to exercise command and control over these forces.

Article IV.4 provides the constitutional basis granting the authority of the Parliamentary Assembly of Bosnia and Herzegovina, *inter alia*, to enact legislation necessary to implement the decisions of the Presidency of Bosnia and Herzegovina, and responsibility for other matters necessary to carry out its duties. Furthermore, Article 36 of the current Defence Law of Bosnia and Herzegovina grants the Parliamentary Assembly the primary authority to legislate all matters related to the organisation, funding, manning, training, equipping, deploying, and employing of the Armed Forces of Bosnia and Herzegovina.

Articles III.2 and III.5 prescribe the explicit responsibility of the entities to provide all necessary assistance to the state to enable it to honour international obligations. This implies that the state must assume all authority and responsibility to enable it to honour international obligations. For Bosnia and Herzegovina, this means obligations that it holds as a participating state in the Organisation for Security and Co-operation in Europe, obligations to the International Criminal Tribunal for the former Yugoslavia, obligations held within the framework of European institutions and organisations, such as the Council of Europe, and other obligations it holds as a result of wider international agreements and conventions that the state is party to. These constitutional provisions include the capacity to establish additional institutions and competencies necessary to pro-

tect the sovereignty, territorial integrity, political independence and international personality of Bosnia and Herzegovina. The proposed new Defence Law of Bosnia and Herzegovina and the Law on Service in the Armed Forces of Bosnia and Herzegovina are a natural consequence of this imperative.

Additional legal basis is provided by the legislative actions that took place in 2003. Changes to the entity constitutions at that time reflected the state's assumption of defence competencies. Further amendments to entity defence and service laws placed entity armies firmly under the control of the state, under the umbrella of the Armed Forces of Bosnia and Herzegovina. Entity action in 2003 supported the state's assumption of defence competencies.

Clearly there is sufficient legal basis for the legislative recommendations of the Defence Reform Commission. The legislative recommendations of the Commission in 2003 were enacted according to the same legal rationale. The Constitution of Bosnia and Herzegovina at that time contained sufficient legal foundation for the state assumption of defence competencies from the entities. The assumption of the remaining defence competencies is a natural extension of the process in 2003 and can be conducted according to the same rationale. The right of the state to protect its sovereignty, territorial integrity, independence, and international personality, and the assumption of competencies that would provide the means to exercise that protection, are explicitly contained within the constitution. These are unequivocal rights and important tenets of international law. This rationale provides the primary legal basis to the new Defence Law of Bosnia and Herzegovina and the Law on Service in the Armed Forces of Bosnia and Herzegovina.



## **4.2. Defence Law of Bosnia and Herzegovina**

### **4.2.1. Introduction**

Although the Defence Reform Commission proposes amendments to the existing Law on Defence of Bosnia and Herzegovina, the Commission has presented these as a new law. This ensures compliance with the Unified Rules for Legislative Drafting in the Institutions of Bosnia and Herzegovina, adopted at the beginning of 2005. Specifically, Article 46(3) of these rules prescribes that if there are amendments to more than half of the original law then the enactment of a new piece of legislation must be initiated. The proposed amended Law on Defence of Bosnia and Herzegovina entails amendments over fifty percent; consequently, the Defence Reform Commission has endeavoured to ensure that its legislative recommendations comply with these rules, and has thus presented the Law on Defence as a new law.

### **4.2.2. Explanation**

The proposed new Law on Defence of Bosnia and Herzegovina reflects the recommendations of the Defence Reform Commission to meet the objective of securing full state-level command and control over all elements of the Armed Forces of Bosnia and Herzegovina and the creation of a single military force. This Law aims to integrate the existing operational and administrative chains of command by transferring the remaining entity defence competencies to state-level; together with the creation of a new institutional framework in order to exercise these exclusively state-level competencies. In particular, this Law prescribes augmented state-level competencies that now incorporate the previous administrative command functions of the entities. Furthermore, this Law assigns competencies and functions to state-level institutions and officials that would be necessary once the entities' role in defence is eliminated.

The Defence Reform Commission's package of reforms, as described in this report, aim to create a modern, effective, and affordable defence establishment that accords with the principles set forth in the mandate of the Defence Reform Commission, as prescribed in the 31 December 2004 Decision of the High Rep-

representative. The Defence Reform Commission considers that the proposed Law on Defence would meet these objectives, and recommends it to the governments and parliaments of Bosnia and Herzegovina and its entities.

The principal objective of the new Law on Defence of Bosnia and Herzegovina is to create a single military force and a single defence establishment that embodies the state's sole competence for defence. This Law would ensure that state-level institutions are able to execute all defence functions resulting from the assumption of remaining defence competencies from the entities to the state.

This Law envisages the establishment of a new structure of the Armed Forces of Bosnia and Herzegovina organised into a single military force. The new structure foresees that the armed forces would consist of branches organised on the basis of a regimental system. This structure would provide for an integrated force organised on the basis of the defence and security requirements of the state and aimed to fulfil the missions and tasks of the Armed Forces of Bosnia and Herzegovina.

This Law provides for the establishment of a state-level Support Command that would augment existing state defence capacity to enable the execution of new assumed functions. The Support Command is an integral part of the legislative recommendations. Assigned with personnel, logistics, and training and doctrine-related responsibilities, the Support Command would conduct administrative and logistics functions connected to the armed forces previously executed at entity level. Moreover, it would have primary responsibility for the implementation of plans related to personnel management, logistics, and individual educational and professional developmental training initiatives. The creation of the Support Command is an essential new element to allow the state to exercise all assumed defence competencies.

The post of Commander of the new Support Command is included in the vertical and horizontal distribution of posts: keeping with the premise outlined in 2003 to ensure that no peoples are placed at a disadvantage and their interests are taken into account in the decision-making process. Accordingly, the Chief of the Joint Staff, Commander of the Operational Command, and Commander of

the Support Command would be subject to a vertical distribution of posts across the constituent peoples of Bosnia and Herzegovina. Likewise, a horizontal distribution of posts would apply to these senior officials and their deputies. This would ensure the appropriate distribution of authority among the constituent peoples to maintain equality and balance.

Conversely, the proposed Law on Defence would sever the link between the appointment of the minister of defence and general officers in senior command positions. This would mean that changes to the position of defence minister would not affect the tenure of senior military officials and their deputies at the heads of state defence institutions. The rationale behind this recommendation is two-fold: first, to offer stability and continuity for the defence establishment in situations that could naturally arise from Bosnia and Herzegovina's constitutional position as a parliamentary democracy; second, it would offer more likelihood that general officers avoid politicisation – offered by de-linking those posts from political changes to the position of the minister.

Furthermore, the new Law on Defence seeks to enhance existing state-level defence institutions, allowing them to execute newly assumed defence functions. In particular, the competencies of the Ministry of Defence of Bosnia and Herzegovina have been expanded to include all administrative functions previously executed by the entity ministries of defence.

The new Law on Defence embraces the concept of professional armed forces and the process of professionalisation and modernisation. In particular, the Law contains an entirely new concept for a reserve force that would be fully integrated within the Armed Forces of Bosnia and Herzegovina. This reserve force would be an active element of the armed forces and would constitute a positive departure from the previous concept of passive reserves that serve little military or financial value. Likewise, the Defence Reform Commission has agreed to eliminate conscription in order to facilitate the development of armed forces and defence structures that are truly professional. This will contribute greatly to Bosnia and Herzegovina's endeavour to create armed forces that would facilitate its membership in Partnership for Peace and future NATO membership.

Lastly, along with the prescription of new defence competencies to state-level institutions, entity defence competencies have been deleted from the body of the law.

### **4.2.3. Article-by-Article Analysis**

The following section of this report provides an analysis of the proposed Law on Defence of Bosnia and Herzegovina. The chosen method of analysis has been to provide an explanation of each article. Terms and legal corrections have been made to the text remaining from the 2003 version of the Law, including re-formatting and re-numbering articles and sections. This commentary will not, however, provide an explanation of articles that have remained unaffected or have been corrected in a minor manner from the December 2003 adopted version of the Law. The rationale for the majority of these provisions has remained unchanged. New policies and concepts together with explanation of new articles are addressed in the following commentary. The text of the Law is embedded within the commentary.

#### ***Law on Defence of Bosnia and Herzegovina***

##### **CHAPTER I. GENERAL PROVISIONS**

###### **Article 1 (Subject of the Law)**

*This Law shall regulate the common defence system of Bosnia and Herzegovina, establish and define the chain of command and role of all the elements in order for Bosnia and Herzegovina to have full capacity in civilian oversight and protection of the sovereignty and territorial integrity of Bosnia and Herzegovina, and it shall establish rights, responsibilities and activities of the institutions of Bosnia and Herzegovina, entity bodies and the Armed Forces of Bosnia and Herzegovina (hereinafter: the Armed Forces) for defence of the sovereignty and territorial integrity, political independence and international personality of Bosnia and Herzegovina and provision of assistance to civil authorities.*

###### **Article 2 (Armed Forces)**

- (1) The Armed Forces of Bosnia and Herzegovina are a professional, single military force organised and controlled by the State of Bosnia and Herzegovina. The Armed Forces have both an active and a reserve component. As an institution of the State of Bosnia and Herzegovina, the Armed Forces are composed of the three Constituent Peoples and Others in accordance with the Constitution and laws of Bosnia and Herzegovina.*
- (2) The Armed Forces consist of branches organized on the basis of a regimental system. There are three infantry regiments that are organizations that are responsible for the military heritage and identity of the units and peoples from which they are descended. They have no operational or administrative authorities.*

- (3) *The brigade is the principal formation of the Armed Forces. Brigade headquarters consist of personnel from multiple regiments. Brigades shall consist of battalions from more than one infantry regiment.*

**Article 3**  
**(Military Forces)**

*Military forces for the purposes of this law means all formations and units, both combat and support, of the land, air and air defence forces organised by the institutions of Bosnia and Herzegovina. No military forces shall be organised, trained, equipped, or mobilised upon the territory of Bosnia and Herzegovina except pursuant to this Law and the Law on Service in the Armed Forces of Bosnia and Herzegovina. (BiH Official Gazette \_\_/05)*

**Article 4**  
**(Missions of the Armed Forces)**

*The missions of the Armed Forces shall be as follows:*

- a) Participation in collective security operations, including peace support operations,*
- b) To provide military defence of the state and its citizens in the event of an attack, including combating terrorism,*
- c) To assist civil authorities in responding to natural and other disasters and accidents,*
- d) Mine action in Bosnia and Herzegovina,*
- e) To fulfil the international obligations of Bosnia and Herzegovina.*

**Article 5**  
**(Prohibition of Political Engagement)**

*The Armed Forces cannot be used for political purposes or political partisan activities.*

These articles provide basic definitions and define the Armed Forces of Bosnia and Herzegovina. Articles 1 and 3 remain largely unchanged from 2003, apart from some minor technical amendments to Article 3.

Article 2 has been substantially amended to reflect the changes in the structure and composition of the Armed Forces of Bosnia and Herzegovina. In particular, this article provides for the transformation of the Armed Forces of Bosnia and Herzegovina into a single military force. It embodies the rationale to transform the armed forces into a professional force with an active reserve element, which by implication deletes the former passive reserve component of the armed forces. The current system and organisation of three mono-ethnic brigades prevents Bosnia and Herzegovina from being a viable candidate for NATO membership, and this article provides for an armed forces structure that would comply with the foreign, defence, and security policy aspiration of Bosnia and Herzegovina to join NATO. The brigade structure would be retained as a basic struc-

tural and operational formation. However, in recognition of the heterogeneous nature of Bosnia and Herzegovina, a regimental system would be created to maintain military heritage and identity. Accordingly, this article prescribes that the Armed Forces of Bosnia and Herzegovina would consist of branches organised on the basis of regiments. There would be three infantry regiments descended from the former Army of the Federation of Bosnia and Herzegovina and Army of Republika Srpska. These infantry regiments would be solely responsible for the maintenance of the military heritage and identity of the units and peoples from which they are descended and would have no operational or administrative competencies. Other branches of the armed forces, such as the artillery, engineers, and signals, etc., would also be organised on the basis of a regimental system. The brigades would consist of battalions from each of the infantry regiments. Section 3.1 of this report explains the regimental system and its application in greater detail.

Article 4 has been revised to reflect the defence and security policies of Bosnia and Herzegovina and the contemporary security environment. In particular, this article now reflects that the missions of the armed forces would include participation in collective security operations, including peace support operations, and defence of the state, including combating terrorism.

Article 5 has been slightly amended. Previously this referred to a prohibition on the use of the armed forces for political party activities; this has now been revised to include all general political activities and not only those pertaining to party politics. This reflects the principle that the armed forces must be apolitical and impartial.

**CHAPTER II – RIGHTS AND DUTIES OF THE INSTITUTIONS OF BOSNIA AND HERZEGOVINA**

**SECTION A – Competencies of Bosnia and Herzegovina**

**Article 6  
(Objectives)**

*Bosnia and Herzegovina shall organise, develop and maintain the military capability and preparedness of the Armed Forces in order to:*

- a) Ensure its sovereignty, territorial integrity, political independence, and international personality,*
- b) Promote its foreign policy objectives,*

- c) *Fulfil the international obligations of Bosnia and Herzegovina,*
- d) *Protect the citizens of Bosnia and Herzegovina.*

**Article 7**  
**(Civilian Control)**

*Bosnia and Herzegovina shall ensure transparent, democratic, civilian control over the Armed Forces.*

**Article 8**  
**(Command and Control)**

*(1) The State of Bosnia and Herzegovina shall exercise command and control over the Armed Forces.*

*(2) The chain of command and control over the Armed Forces starts from the Presidency of Bosnia and Herzegovina (hereinafter: the Presidency), goes to the Minister of Defence of Bosnia and Herzegovina, and continues through the Chief of the Joint Staff of the Armed Forces of Bosnia and Herzegovina, and the Commanders of the Operational Command of the Armed Forces of Bosnia and Herzegovina and Support Command of the Armed Forces of Bosnia and Herzegovina, to the commanders of subordinate unit commands and units.*

These articles prescribe the competencies of Bosnia and Herzegovina regarding the purpose of armed forces, civilian control over the armed forces, and command and control of those forces. Articles 6 and 7 remain unchanged from the Law on Defence of 2003. Article 8, however, has been substantially amended to reflect the assumption of defence competencies from the entities and the sole competency of the state for defence matters.

The 2003 Law on Defence defined two chains of command: operational and administrative chains of command. The entity ministries of defence were only granted responsibilities within the administrative chain of command. With the elimination of entity competencies for defence, there is no longer any need to distinguish between the operational and administrative chains of command. As a result, Article 8 has been redrafted from the 2003 Law on Defence to define a single chain of command that commences with the Presidency of Bosnia and Herzegovina and flows through the Minister of Defence, the Chief of the Joint Staff, the Commanders of the Operational and Support Commands, and then to subordinate military commands and units. Technical changes have been made to other articles from the 2003 Law on Defence to reflect this amendment.

**Article 9**  
**(Military Intelligence Activities)**

*(1) Planning, oversight and execution of all military intelligence activities shall fall under State competency. Military Intelligence is a branch of the Armed Forces,*

*which gathers, processes and distributes information related to the Armed Forces with the aim to support military missions of the Armed Forces.*

*(2) Apart from duties prescribed in paragraph (1) of this Article, the Military Intelligence branch of the Armed Forces shall assist the Intelligence and Security Agency of Bosnia and Herzegovina in collecting strategic military intelligence and performance of counter-intelligence activities.*

*(3) Collecting of strategic military intelligence and the counter-intelligence activities from paragraph (2) of this article which require special investigative actions and use of technical surveillance means shall be exclusively conducted by the Intelligence and Security Agency of Bosnia and Herzegovina in accordance with the Law on the Intelligence and Security Agency of BiH (Official Gazette of BiH, issues 12/04 and 20/04).*

*(4) Coordination between the Military Intelligence branch of the Armed Forces and Intelligence and Security Agency of Bosnia and Herzegovina shall be regulated in greater detail in an agreement that will be signed by the Minister of Defence of Bosnia and Herzegovina and General Director of the Intelligence and Security Agency of Bosnia and Herzegovina, no later than 30 days after this law's entry into force.*

This article prescribes the competency for military intelligence as an exclusive state-level function. The 2003 Law on Defence granted the state competency for strategic and operational intelligence, whilst the responsibility for tactical intelligence remained with the entities. The elimination of entity defence competencies requires that the state undertakes all military intelligence activities.

Moreover, in 2003, when this competency was first assumed by the state, the Intelligence and Security Agency of Bosnia and Herzegovina had not been formed. The adoption of the Law on the Intelligence and Security Agency of Bosnia and Herzegovina together with these new provisions has allowed the opportunity to place intelligence within a vigorous legal and organisation framework. As such, the military intelligence branch of the armed forces would only engage in activities with the aim to support the military missions of the Armed Forces of Bosnia and Herzegovina. Likewise, the military intelligence branch of the armed forces is now obliged to assist the Intelligence and Security Agency of Bosnia and Herzegovina in strategic military intelligence data acquisition and counter-intelligence activities. This provision prohibits the military intelligence branch from engaging in special investigative actions and the use of technical surveillance means. This provision is especially important for state control and oversight, particularly as they place military intelligence within a legal and organisational framework subject to democratic oversight and accountability.

***SECTION B – Parliamentary Assembly of Bosnia and Herzegovina***

**Article 10**  
**(Competencies of the Parliamentary Assembly)**

*The Parliamentary Assembly of Bosnia and Herzegovina (hereinafter: the Parliamentary Assembly) shall have the following competencies:*

- a) Power to declare a state of war upon the request of the Presidency in the event of a direct attack on the State or any part of the State,*
- b) Power to declare a state of emergency upon the request of the Presidency when there is a threat to the existence of the State, a threat of an attack on the State or any part of the State, or an immediate danger of war,*
- c) Exercising democratic parliamentary control over the Armed Forces and all State-level defence institutions,*
- d) Legislating all matters related to the organisation, funding, manning, training, equipping, deployment and employment of the Armed Forces,*
- e) Confirming appointments of the Chief and Deputy Chiefs of the Joint Staff of the Armed Forces, the Commander and Deputy Commanders of the Operational Command of the Armed Forces, Commander and Deputy Commanders of the Support Command of the Armed Forces and all general officers in the Armed Forces,*
- f) Authority to oversee and investigate all matters related to the organisation, funding, manning, training, equipping, deployment and employment of the Armed Forces.*
- g) Adoption of rules regulating the safeguarding of secrets during investigations and deliberations.*

This article prescribes the competencies of the Parliamentary Assembly of Bosnia and Herzegovina. The substance of this article remains unchanged from the 2003 Law on Defence, apart from minor, technical amendments relating to the appointment of senior military officers. Additionally, this article has now been collapsed into one article as opposed to the seven as contained in the 2003 Law on Defence, and has been reordered and brought to the front of the Law to reflect the importance of the constitutional position of the Parliamentary Assembly.

**SECTION C – Presidency of Bosnia and Herzegovina**

**Article 11**  
**(Command and control)**

*The Presidency shall exercise supreme command and control of the Armed Forces acting in consensus.*

**Article 12**  
**(Competencies of the Presidency)**

*The Presidency shall make decisions by consensus and shall have the competencies to:*

- a) Request a declaration of war from the Parliamentary Assembly,*
- b) Request a declaration of a state of emergency from the Parliamentary Assembly,*

- c) *Deploy the Armed Forces to operations during time of war, state of emergency or to peace support operations abroad pursuant to law,*
- d) *Authorise the Minister of Defence to order employment and deployment of the Armed Forces,*
- e) *Commit military forces to assist civil authorities in responding to natural and other disasters or accidents,*
- f) *Determine and alter the size and structure of the Armed Forces,*
- g) *Determine the appropriate ethnic representation within the Armed Forces, taking into consideration the last census, operational readiness, manning needs, morale and cohesion of the Armed Forces. The Presidency shall take special care to ensure appropriate ethnic representation within units from branches other than the infantry by precise definition of minimum representation of personnel in those units.*
- h) *Approve the organisation of military forces for tasks and missions,*
- i) *Appoint the Chief and Deputy Chiefs of the Joint Staff of the Armed Forces of Bosnia and Herzegovina, the Commander and Deputy Commanders of the Operational Command of Armed Forces of Bosnia and Herzegovina and the Commander and Deputy Commanders of the Support Command of the Armed Forces of Bosnia and Herzegovina,*
- j) *Promote profesional military persons into general officer ranks in the Armed Forces,*
- k) *Appoint and remove General Officers in the Armed Forces,*
- l) *Remove the Chief or Deputy Chiefs of the Joint Staff of the Armed Forces of Bosnia and Herzegovina, the Commander or Deputy Commanders of the Operational Command of the Armed Forces of Bosnia and Herzegovina and the Commander or Deputy Commanders of the Support Command of the Armed Forces of Bosnia and Herzegovina, upon the proposal of the Minister of Defence,*
- m) *Appoint and remove military-diplomatic representatives and military representatives in diplomatic/consular missions of Bosnia and Herzegovina and international organisations, as well as military representatives of Bosnia and Herzegovina in foreign, multinational or international military commands and other foreign multinational or international institutions,*
- n) *Inform the Parliamentary Assembly on strategic security and defence matters,*
- o) *Adopt the Security Policy and Defence Policy of Bosnia and Herzegovina to provide strategic guidance in foreign affairs and defence matters.*

Article 11 and 12 define the competencies and responsibilities of the Presidency of Bosnia and Herzegovina. The list of competencies remains largely unchanged from the 2003 version of the Law on Defence. The major, substantive change reflects the addition of the Support Command to the defence structure of Bosnia and Herzegovina. The Presidency of Bosnia and Herzegovina is assigned the competency to appoint and remove the Commander of the Support Command and deputies, similar to the competency to appoint and remove the Commander of the Operational Command and deputies. In addition, the Presidency is also granted the competency to determine the appropriate representation of the con-

stituent peoples [and *others*] within all units and branches of the armed forces. Lastly, a few additional minor changes have been made to clarify and improve the 2003 text.

**SECTION D – Ministry of Defence of Bosnia and Herzegovina**

**Article 13  
(Competencies of Ministry of Defence)**

*The Ministry of Defence of Bosnia and Herzegovina (hereinafter: the Ministry of Defence) shall have the following competencies:*

- a) Creation and maintenance of the defence capability in order to ensure the protection of the sovereignty, territorial integrity, political independence, and international personality of Bosnia and Herzegovina,*
- b) Proposing the defence budget of Bosnia and Herzegovina and issuing approvals to expenditures from the state defence budget,*
- c) Organization, equipping and supplying of the Armed Forces,*
- d) Regulating the organization and conduct of regiments, their headquarters, and staffs.*
- e) Implementation of defined policies and guidelines and ensuring the implementation of laws, other regulations and general documents in the area of defence,*
- f) Performance of duties with regard to the construction and maintenance of military and other facilities, as well as facilities of special importance for the defence of Bosnia and Herzegovina,*
- g) Administration and use of funds allocated for the needs of the Armed Forces,*
- h) Acquisition, safekeeping and replenishment of the reserves of special purpose products for the needs of the Armed Forces,*
- i) Development of the criteria for the conditions and methods of warehousing, safekeeping and maintenance of weapons and military equipment, and ensuring that material resources and facilities of the Armed Forces are protected,*
- j) Testing, quality control and verification of weapons and military equipment for the needs of Armed Forces,*
- k) Planning and execution of geodetic, photogrammetrical and reproductive/cartographic tasks in the interest of the defence; supervision of the execution of those tasks and attending to the safekeeping, storing and distribution of geodetic, photogrammetrical and cartographic materials and documents important for the defence,*
- l) Organization of communications, counter-electronic security and crypto-protection of the Armed Forces,*
- m) Organization and performance of the inspection over the Armed Forces,*
- n) Organization and implementation of security and protection measures for the defence system and confidential defence information,*
- o) Developing of general and basic rules for the Armed Forces,*
- p) Rendering regulations on schooling, training and education in the Armed Forces,*
- q) Rendering regulations on the military discipline,*
- r) Representation of Bosnia and Herzegovina in international relations related to defence matters,*

- s) *Supervision of all subjects of the Armed Forces,*
  - t) *Sends a proposal to the Council of Ministers of Bosnia and Herzegovina with an initiative for the participation in peace support operations, and other competencies prescribed by the Law on Participation of Members of the Armed Forces of Bosnia and Herzegovina, Police Officers, Civil Servants, and other Personnel in Peace Support Operations and Other Activities Abroad (The Official Gazette of BiH no. 14/05)*
  - u) *Development, review and update of the Defence Policy of Bosnia and Herzegovina for approval by the Presidency and adoption by the Parliamentary Assembly,*
  - v) *Development and approval of policies and regulations governing the organization, administration, personnel, training, equipping, and employment of the Armed Forces,*
  - w) *Ensuring that Bosnia and Herzegovina fulfils its international obligations related to defence matters,*
  - x) *Establishment of procedures for approving military assistance to civil authorities in the event of natural and other disasters and accidents, on the basis of the authority granted by the Presidency,*
  - y) *Ensuring transparency of the functions of the Ministry of Defence,*
  - z) *Determining the housing policy for personnel of the Ministry of Defence and Armed Forces,*
  - aa) *Planning and organizing scientific and research work of importance for defence,*
  - bb) *Providing expert opinion on curricula exclusively related to the military aspects of civil defence upon the request of competent institutions,*
  - cc) *Other competencies defined in the Law.*
- (2) The Minister of Defence shall render regulations within his competencies and issue instructions for the performance of duties listed in paragraph (1) of this Article.*

**Article 14**  
**(Manning of the Ministry of Defence)**

*The Ministry of Defence shall be manned with civil servants, employees and professional military personnel assigned to the Ministry of Defence in accordance with current laws.*

These provisions stipulate the competencies of the Ministry of Defence of Bosnia and Herzegovina. Article 13, listing the specific competencies and functions, has been substantially re-written. Administrative competencies, such as those for personnel, training, and equipping of entity armies, left with the entity ministries of defence in 2003 have been assumed by the state ministry. This provision now reflects the transfer of defence competencies from the entities to the state, and in particular, specific technical functions and responsibilities prescribed within the entity laws on defence have now been included as competencies of the state ministry. This provision now also more closely reflects the legis-

lative drafting style employed in Bosnia and Herzegovina by defining a more comprehensive and detailed list of ministry competencies.

Article 14 prescribes the personnel composition of the Ministry of Defence of Bosnia and Herzegovina. Language from the 2003 Law on Defence that specified the Joint Staff existed as an integral part of the ministry of defence has now been deleted. This amendment is intended to grant the Joint Staff greater autonomy in the execution of its functions at the strategic level of the Armed Forces of Bosnia and Herzegovina. Although still subordinate to the ministry of defence, the new formulation of this article makes it clear that the Joint Staff is not directed by the ministry of defence in its day-to-day tasks. Revisions made to Article 24 of this Law [Article 28 of the 2003 Law on Defence] concerning the distribution of posts across the constituent peoples of Bosnia and Herzegovina, described later in this commentary, legally separating the Joint Staff from the ministry, are also intended to reduce the potential for political influence on the work of the Joint Staff.

***SECTION E – Minister of Defence of Bosnia and Herzegovina***

***Article 15***

***(Organizational and Administrative Competencies)***

*The Minister of Defence of Bosnia and Herzegovina (hereinafter: the Minister of Defence) shall have the following organisational and administrative competencies, which shall be subject to the supreme command and control of the Presidency:*

- a) Proposing and rendering regulations, issuing directives and orders governing the organisation, administration, personnel, training, equipping, deployment and employment of the Armed Forces to ensure maximum interoperability within the Armed Forces and with NATO forces,*
- b) Acting as the international representative of Bosnia and Herzegovina in defence matters at the ministerial level,*
- c) Making recommendations to the Presidency regarding the size and structure of the Armed Forces,*
- d) Establishes the organization and formation of commands and units of the Armed Forces at the proposal of the Chief of the Joint Staff of the Armed Forces,*
- e) Making recommendations to the Presidency regarding the organisation of military forces for tasks and missions,*
- f) Establishing strategic planning for armed conflicts, peace support operations, and response to natural and other disasters and accidents,*
- g) Proposing the appointment, promotion and removal of general officers pursuant to the provisions of this Law,*
- h) Planning and overseeing the implementation of all military intelligence activities for the Armed Forces,*

- i) *Making recommendations to the Presidency regarding the appointment of military-diplomatic representatives and military representatives,*
- j) *Employment of professional military personnel to fill approved vacancies in the Armed Forces,*
- k) *Promotion, appointment and dismissal of military personnel other than general officers,*
- l) *Regulating the procurement of goods and services for the Armed Forces that are exempted pursuant to the BiH Law on Public Procurement (The official Gazette of BiH no. 49/04 and 19/05),*
- m) *Managing and rendering regulations on the use of movable and imovable property.*

**Article 16**  
**(Command Competencies)**

*The Minister of Defence shall have the following command competencies subject to the supreme command and control authority of the Presidency:*

- a) *Issuing orders to the Chief of the Joint Staff of the Armed Forces of Bosnia and Herzegovina to deploy or employ any unit of the Armed Forces, at home or abroad, to give effect to decisions of the Presidency,*
- b) *Issuing orders to the Chief of the Joint Staff of the Armed Forces of Bosnia and Herzegovina to activate reserve units and categories of reservists in accordance with this Law,*
- c) *Directing the deployment or employment of any portion of the Armed Forces for the purpose of assisting civil authorities in responding to natural and other disasters or accidents pursuant to Article 44 of this Law,*
- d) *Exercising command and control over all military intelligence activities conducted by the Armed Forces.*

These articles define the organisational, administrative, and command competencies of the Minister of Defence of Bosnia and Herzegovina. These remain largely unchanged from the 2003 Law on Defence. Minor technical revisions have been made to reflect that certain functions fall within the competency of the ministry of defence as opposed to the position of minister – as a result some competencies have now been moved from this section of the Law to the previous. Other minor amendments have been made to reflect the transfer of administrative defence competencies from the entities to the state. In particular, provision has been made for the minister to manage and render regulations for the use of movable and immovable property; this is an important provision from an administrative perspective and is a major component of establishing state-level capacity to manage and control defence resources.

**Article 17**  
**(Control and Inspections)**

*(1) The Minister of Defence shall have the authority to oversee, monitor and inspect the Armed Forces in order to ensure compliance with this Law, and with his orders,*

*instructions and directives. The Minister of Defence shall nominate persons who will conduct inspections to verify such compliance and ensure transparency.*

*(2) The Minister of Defence shall be accountable to the Parliamentary Assembly and its defence commissions, and, upon their request, appear before them and report on matters that fall under the competencies of the Ministry of Defence. The Minister of Defence shall appoint members of the Ministry of Defence personnel to ensure such participation and assistance as may be requested to support parliamentary processes.*

**Article 18**  
**(Restrictions on Appointment)**

*A person may not be appointed Minister of Defence or Deputy Minister of Defence within three years after the termination of that person's professional military service in the Armed Forces.*

**Article 19**  
**(Responsibilities of Deputy Minister)**

*(1) The Minister of Defence shall have two deputies: the Deputy Minister of Defence for Policy and Plans, and the Deputy Minister of Defence for Resource Management.*

*(2) The Deputy Minister of Defence for Policy and Plans shall be responsible for:*

- a) Policy and planning,*
- b) International cooperation,*
- c) Military intelligence activities and security, and*
- d) Command, control, and communications.*

*(3) The Deputy Minister of Defence for Resource Management shall be responsible for:*

- a) Personnel management,*
- b) Finance and budget, and*
- c) Procurement and logistics.*

*(4) The Minister of Defence and his two deputies shall not be from among the same constituent people.*

These articles largely remain unchanged from the 2003 Law on Defence; a few minor amendments have been made to clarify and improve the text. Article 19 has been amended to reflect the addition of a new organisational unit within the ministry of defence. Consequently, the Deputy Minister for Policy and Planning would now be additionally responsible for international co-operation.

**SECTION F – Joint Staff of the Armed Forces of Bosnia and Herzegovina**

**Article 20**  
**(Competencies)**

*(1) The Joint Staff of the Armed Forces of Bosnia and Herzegovina (hereinafter: the Joint Staff) is an expert staff body subordinate to the Minister of Defence.*

*(2) The Joint Staff shall be responsible for the planning, organisation and implementation of directives and orders of the Minister of Defence, including:*

- a) Preparation and oversight of the execution of military orders as instructed by the Minister of Defence,*

- b) *Development of military strategies to implement the Security Policy and Defence Policy of Bosnia and Herzegovina, as instructed by the Minister of Defence,*
  - c) *Planning and implementation of the engagement of military forces pursuant to law,*
  - d) *Development of policies in support of directives and orders issued by the Minister of Defence,*
  - e) *Providing support to military staff of the Ministry of Defence.*
- (3) *The Joint Staff consists of the Chief of the Joint Staff, a Deputy for Operations, a Deputy for Resources and military staff from the Armed Forces.*

**Article 21**  
**(Manning of the Joint Staff)**

- (1) *The Chief of the Joint Staff of the Armed Forces of Bosnia and Herzegovina shall propose to the Minister of Defence the manning of the Joint Staff in accordance with the organizational/formation structure and the procedures established by the Presidency.*
- (2) *No more than two most senior military staff members who are directly subordinated to the Chief and Deputy Chiefs of the Joint Staff shall be from among the same constituent people. Other personnel shall be selected based on the principles of professional qualifications and appropriate representation of the constituent peoples and others in accordance with the last census.*

**Article 22**  
**(Competencies of the Chief of the Joint Staff)**

- (1) *The Chief of the Joint Staff of the Armed Forces of Bosnia and Herzegovina shall have the following competencies within the chain of command and under the supreme command and control of the Presidency:*
- a) *To act as a military advisor to the Presidency and the Minister of Defence,*
  - b) *To ensure the operational readiness of the Armed Forces,*
  - c) *To issue orders in accordance with the competencies of the Joint Staff,*
  - d) *To oversee and ensure the execution of directives and orders issued by the Minister of Defence,*
  - e) *To give recommendations and opinions to the Minister in relation with the promotion and appointment of personnel with the ranks of Colonel, Brigadier and General.*
  - f) *To represent Bosnia and Herzegovina in all international organisations and all countries in defence matters at the level of chiefs of joint staffs /chiefs of defence,*
  - g) *To direct, oversee, and be responsible for activities of the Joint Staff personnel.*
- (2) *The Chief of the Joint Staff of the Armed Forces of Bosnia and Herzegovina, while serving in that capacity, shall hold the rank of Lieutenant General and shall be the highest-ranking officer in the Armed Forces.*

**Article 23**  
**(Responsibilities of Deputy Chief of the Joint Staff)**

- (1) *In the Joint Staff, the Deputy Chief of the Joint Staff of the Armed Forces of Bosnia and Herzegovina for Operations shall be responsible for:*
- a) *Military intelligence activities, counter intelligence activities, and security operations,*
  - b) *Development of capabilities for the implementation of operational commands and plans, force development, and modernization,*

- c) *Maintaining relations between the Armed Forces and civil authorities.*
- (2) *Within the Joint Staff, the Deputy Chief of the Joint Staff of the Armed Forces of Bosnia and Herzegovina for Resources shall be responsible for:*
  - a) *Human resources,*
  - b) *Supply, maintenance, transport and staff services,*
  - c) *Technology-based information systems and communications.*

**Article 24**  
**(Appointment)**

*(1) The Chief and Deputy Chiefs of the Joint Staff of the Armed Forces of Bosnia and Herzegovina shall be proposed by the Minister of Defence, and appointed by the Presidency in consultation with the Standing Committee on Military Matters. The Parliamentary Assembly shall confirm the appointment within 45 days of the day when the Presidency submits its decision on appointment.*

*(2) The Presidency may remove the Chief or Deputy Chiefs of Staff from their positions upon the proposal of the Minister of Defence.*

*(3) The Chief of the Joint Staff of the Armed Forces of Bosnia and Herzegovina and his two deputies cannot be from among the same constituent people nor shall the Chief of the Joint Staff of the Armed Forces of Bosnia and Herzegovina be from among the same constituent people as the Commander of the Operational Command of the Armed Forces of Bosnia and Herzegovina and the Commander of the Support Command of the Armed Forces of Bosnia and Herzegovina.*

These articles prescribe the competencies and staffing of the Joint Staff of Bosnia and Herzegovina. As described in the commentary to Article 14 above, amendments have been made to the competencies of the Joint Staff and the Chief of Joint Staff to reflect its organisational separation from the ministry of defence. Although, as prescribed, the Joint Staff is still subordinate to the minister of defence as per the chain of command, the Joint Staff and its Chief are now bestowed with appropriate competencies reflecting its increased autonomous nature. Moreover, the competencies of the Joint Staff have been increased to reflect its key strategic role within the defence establishment – especially in the development of military strategies to implement the security and defence policies of Bosnia and Herzegovina.

To reflect that the Joint Staff is not directed in the day-to-day execution of its tasks, the Chief of the Joint Staff's responsibilities have been augmented. The Chief of the Joint Staff is now bestowed more direct authority over his subordinate military staff. Article 21 prescribes the competency to propose the composition and membership of the permanent staff, and Article 22 grants the ability to direct, oversee, and have responsibility for the activities of the personnel of the Joint Staff. An explicit reference the Chief of the Joint Staff's responsibility for

issuing orders has been added to clarify the command responsibilities of that position. The Chief of the Joint Staff has also been given a new role to advise the minister of defence on the promotion and appointment of colonels, brigadiers, and generals.

Article 24 has been amended to delete the minister of defence from the distribution of senior command positions across the constituent peoples of Bosnia and Herzegovina, and the Commander of the Support Command has now been added to that distribution. The 2003 Law on Defence required the Minister of Defence, the Chief of the Joint Staff, and the Commander of the Operational Command of Bosnia and Herzegovina to be from different constituent peoples [and *others*]. This could have created a situation where a political change in the position of minister of defence might require changes in the two senior military positions. Removing the minister of defence from the ethnic distribution of command positions eliminates this possibility and helps to insulate the armed forces from normal political changes in the Council of Ministers of Bosnia and Herzegovina, and those that could arise as a result of Bosnia and Herzegovina's constitutional position as a parliamentary democracy.

The advantages of de-linking the senior military commanders from changes in the position of minister of defence are two-fold: firstly, it offers more stability and continuity for the defence establishment and key general officer positions; secondly, it means that general officers are less effected by politics – that is neither embroiled in party political politics within the government nor affiliated as a spokesperson for the nationality that they are purported to represent within the vertical distribution of posts.

The newly created position of Commander of the Support Command has been substituted for the minister of defence in the new distribution of positions. Now, the Law requires that the three highest military positions in the armed forces shall be distributed among the three constituent peoples of Bosnia and Herzegovina [and *others*].

***SECTION G – Operational Command of the Armed Forces of Bosnia and Herzegovina***

**Article 25**  
**(The Commander of the Operational Command)**

*(1) The Commander of the Operational Command of the Armed Forces of Bosnia and Herzegovina is:*

- a) The operational commander for all tactical units in the Armed Forces,*
- b) The operational commander for any mission that requires deployment or employment of any operational element of the Armed Forces,*
- c) The commander for training and multinational exercises that require deployment or employment of any element of the Armed Forces.*

*(2) The Commander of the Operational Command of the Armed Forces of Bosnia and Herzegovina shall be subordinate to the Chief of the Joint Staff of the Armed Forces of Bosnia and Herzegovina.*

*(3) The Commander of the Operational Command of the Armed Forces of Bosnia and Herzegovina shall have two deputy commanders who shall be subordinate to him within the Operational Command.*

**Article 26**  
**(Competencies)**

*(1) Subject to the supreme command and control of the Presidency, the Commander of the Operational Command of the Armed Forces of Bosnia and Herzegovina shall have the following competencies within the chain of command:*

- a) To issue orders to subordinate commands and forces necessary to carry out missions assigned to the command,*
- b) To implement policies of the Joint Staff,*
- c) To prepare operational plans based upon orders of the Chief of the Joint Staff of the Armed Forces of Bosnia and Herzegovina,*
- d) To prescribe tactical command and control arrangements for commands and forces within the Operational Command,*
- e) To organise commands and forces within the Command as he considers necessary to carry out missions assigned to the Command,*
- f) To employ forces within the Command as he considers necessary to carry out missions assigned to the Command,*
- g) To appoint commanders of temporary units for mission accomplishment,*
- h) To coordinate and approve those aspects of administration and support, including control of resources and equipment, internal organisation, and training, and discipline necessary to carry out missions assigned to the Command,*
- i) To report to the Chief of the Joint Staff on operational requirements,*
- j) To recommend initiatives to improve the interoperability of the Armed Forces with the armed forces of NATO member states.*

*(2) The Commander of the Operational Command of the Armed Forces of Bosnia and Herzegovina, while serving in that capacity, shall hold the rank of Major General.*

**Article 27**  
**(Appointment)**

*(1) The Commander of the Operational Command of the Armed Forces of Bosnia and Herzegovina and his two deputies shall be proposed by the Minister of Defence, and appointed by the Presidency in consultation with the Standing Committee on Military Matters. The Parliamentary Assembly shall confirm the appointment within 45 days of the day when the Presidency submits its decision on appointment.*

*(2) The Commander of the Operational Command of the Armed Forces of Bosnia and Herzegovina and his two deputies cannot be from among the same constituent people nor shall the Commander be from among the same constituent people as the the Chief of the Joint Staff of the Armed Forces of Bosnia and Herzegovina or the Commander of the Support Command of the Armed Forces of Bosnia and Herzegovina.*

*(3) The Commander of the Operational Command of the Armed Forces of Bosnia and Herzegovina and his two deputies may be removed from their positions by the Presidency, upon the recommendation of the Minister of Defence.*

These articles prescribe the competencies and responsibilities of the Operational Command and the Commander. These have not substantially changed from the 2003 Law on Defence; some amendments, however, have been made to clarify and improve the text. Minor amendments have been made to reflect more clearly the Operational Command's responsibilities for the execution of operational and tactical duties within the hierarchy of defence institutions. To this end, the ministry of defence defines policy; as described in the previous section, the Joint Staff renders the strategy to achieve the policy set by the ministry, and the Operational Command implements the strategy of the Joint Staff on an operational level. Article 25.1(a) has been slightly revised to reflect that the Commander of the Operational Command is the operational commander for all tactical units - the 2003 text stipulated the responsibility for operational units. This revision has been made to reflect a military technical point that operational units refer to the corps level and above, whilst tactical units refer to all lower level units. Without explanation this might have seemed a downgrading of the competency of the commander, but in fact the text now reflects the full operational competencies envisaged for the Commander of the Operational Command.

#### **SECTION H – Support Command**

##### **Article 28**

##### **(Commander of Support Command)**

*(1) The Commander of the Support Command of the Armed Forces of Bosnia and Herzegovina is the commander for:*

- a) Personnel,*
- b) Logistics,*
- c) Training and doctrine.*

*(2) The Commander of the Support Command of the Armed Forces of Bosnia and Herzegovina shall be subordinate to the Chief of the Joint Staff of the Armed Forces of Bosnia and Herzegovina.*

(3) *The Commander of the Support Command of the Armed Forces of Bosnia and Herzegovina shall have two deputy commanders who shall be subordinate to him within the Support Command.*

#### **Article 29**

##### **(Competencies of the Commander of the Support Command)**

(1) *Subject to the supreme command, direction and control of the Presidency, the Commander of the Support Command of the Armed Forces of Bosnia and Herzegovina shall have the following competencies within the chain of command:*

- a) *To issue orders and instructions to subordinate departments and forces necessary to carry out missions assigned to the Command, including orders and instructions with regard to all the aspects of individual military training and logistics,*
- b) *To implement the Ministry of Defence and Joint Staff policies, regulations and orders related to personnel, logistics and training,*
- c) *To prepare support plans for operations on the basis of orders from the Chief of the Joint Staff of the Armed Forces of Bosnia and Herzegovina,*
- d) *To support the Operational Command on the basis of orders from the Chief of the Joint Staff of the Armed Forces of Bosnia and Herzegovina,*
- e) *To organise departments and forces within the Command as he considers necessary to carry out missions assigned to the Command,*
- f) *To support the deployment and redeployment of the Armed Forces,*
- g) *To coordinate and approve those aspects of administration and support, including control of resources and equipment, internal organisation, and training, and discipline necessary to carry out missions assigned to the Command,*
- h) *To report to and advise the Chief of the Joint Staff on logistical requirements and standards for personnel training, equipping, and supplying of the Armed Forces,*
- i) *To identify training requirements of the Armed Forces, develop a draft Training Doctrine, and organise the implementation of individual training,*
- j) *To maintain the immovable property of the Armed Forces,*
- k) *To develop and implement plans for the management of ammunition storage sites and weapons storage sites in accordance with the international obligations, relevant laws and regulations rendered by the Ministry of Defence and Joint Staff,*
- l) *To advise on the procurement of goods and services for the Armed Forces in accordance with valid laws,*
- m) *To recommend initiatives for the improvement of the interoperability of the Armed Forces with the armed forces of NATO member states,*
- n) *Shall be responsible for personnel records management in accordance with a regulation to be rendered by the Minister of Defence.*

(2) *The Commander of the Support Command of the Armed Forces of Bosnia and Herzegovina, while performing that duty, shall have the rank of Major General.*

#### **Article 30**

##### **(Appointment and Removal)**

(1) *The Commander of the Support Command and his two deputies shall be proposed by the Minister of Defence, and appointed by the Presidency in consultation with the Standing Committee on Military Matters. The Parliamentary Assembly shall confirm the appointment within 45 days of the day when the Presidency submits its decision on appointment.*

*(2) The Commander of the Support Command and his two deputies cannot be from among the same constituent people nor shall the Commander be from among the same constituent people as the Chief of the Joint Staff of the Armed Forces of Bosnia and Herzegovina or the Commander of the Operational Command of the Armed Forces of Bosnia and Herzegovina.*

*(3) The Commander of the Support Command and his two deputies may be removed from their positions by the Presidency, upon the recommendation of the Minister of Defence.*

**Article 31**  
**(Duration of Duty)**

*The Chief of the Joint Staff of the Armed Forces of Bosnia and Herzegovina and his deputies, Commander of the Operational Command of the Armed Forces of Bosnia and Herzegovina and the Commander of the Support Command of the Armed Forces of Bosnia and Herzegovina and their deputies, shall be appointed to the same position for a period of up to four years.*

These articles are new additions to the Law on Defence and reflect a key element of the defence establishment and its capacity to undertake new assumed competencies. These provisions create a Support Command within the Armed Forces of Bosnia and Herzegovina and define its responsibilities within the chain of command.

The Support Command would assume administrative and logistics functions connected to the armed forces previously executed at entity level, and is assigned with personnel, logistics, and training and doctrine-related responsibilities. It would have primary responsibility for the implementation of policies rendered by the ministry of defence and Joint Staff related to personnel management, logistics, and individual educational and professional development and training.

The Support Command is subordinate to the Chief of the Joint Staff at the same level as the Operational Command. The Commander of the Support Command would have two deputies. Like the Chief of Joint Staff, the Commander of the Operational Command, the Commander of the Support Commander and their deputies are subject to a vertical and horizontal distribution of posts across the constituent peoples [and *others*] of Bosnia and Herzegovina.

Article 31 has been added to specify that the Chief of the Joint Staff and the Commanders of the Operational and Support Commands, and their deputies, shall all serve for up to a period of four years. This new provision is intended to create a regular rotation of senior officers into the highest command positions

within the Armed Forces of Bosnia and Herzegovina. This allows for the injection of new blood and energy into higher positions and would contribute to a dynamic and professional work ethic.

**SECTION I – Standing Committee on Military Matters**

**Article 32  
(Responsibilities)**

*The Standing Committee on Military Matters shall perform the following duties unless otherwise decided by the Presidency:*

- a) *Review and advise on the Security Policy and Defence Policy of Bosnia and Herzegovina, which shall be prepared under the direction of the Minister of Defence,*
- b) *Advise the Presidency on the appointment of the Chief and Deputy Chiefs of the Joint Staff of the Armed Forces of Bosnia and Herzegovina, the Commanders and Deputy Commanders of the Operational Command and Support Command of the Armed Forces of Bosnia and Herzegovina,*
- c) *As any voting member of the Standing Committee on Military Matters can appeal if the Presidency disapproves the appointment or removal of a general officer, such appeals shall be considered by the entire Standing Committee on Military Matters, and may be overturned in accordance with the Terms of Reference of the Standing Committee on Military Matters.*

This provision largely remains unaltered from the 2003 Law on Defence. Paragraph (b) has been revised to reflect the inclusion of the Support Command and that the Standing Committee on Military Matters has an advisory role in the appointment of all senior military officials in the defence institutions of Bosnia and Herzegovina.

**CHAPTER III – COMPOSITION OF THE ARMED FORCES OF BOSNIA AND HERZEGOVINA**

**SECTION A – General Provisions**

**Article 33  
(Composition of the Armed Forces)**

*The Armed Forces shall be composed of professional military personnel, members of the reserve force engaged in military service, civilian personnel and cadets.*

**Article 34  
(The Anniversary of the Armed Forces)**

- (1) *The anniversary of the Armed Forces is 1<sup>st</sup> December.*
- (2) *The Minister of Defence shall establish the anniversary date of regiments within the Armed Forces by regulation.*

Article 33 defines the personnel composition of the Armed Forces of Bosnia and Herzegovina and remains largely unaltered from the 2003 Law on Defence, with

the minor addition of the category of cadets to reflect their status in the armed forces.

Article 34 prescribes that the anniversary of the Armed Forces of Bosnia and Herzegovina is 01 December, which reflects the adoption of the 2003 Law on Defence and subsequent creation of the Armed Forces of Bosnia and Herzegovina. This article also prescribes the competency of the minister of defence to establish the anniversary dates of regiments within the armed forces.

**SECTION B – Reserve Force**

**Article 35  
(Mission)**

*The Armed Forces shall include reserve personnel with the mission to support active peacetime forces, maintain operational readiness, complement operational capabilities, and improve the sustainability of the regular forces.*

**Article 36  
(Manning of Reserves)**

*(1) Reserve personnel shall be soldiers, NCO's and officers whose professional contractual military service has expired. The service in the reserves shall be defined in the Law on Service in the Armed Forces of Bosnia and Herzegovina (BiH Official Gazette \_/05).*

*(2) The Minister of Defence may recruit additional reserve personnel, who may have no prior military experience, in order to fill positions that require special expertise or experience. Such experts' obligation to serve in the reserves shall be defined by contract.*

**Article 37  
(Size and Structure)**

*In accordance with Article 12 of this Law, the Presidency shall determine the size and structure of the reserve force of the Armed Forces which shall be 50% of the approved strength of the professional military personnel. The Minister of Defence shall be responsible for organizing, equipping and training the reserve force.*

**Article 38  
(Training)**

*Reserve personnel without prior military experience shall be required to undergo a military training in accordance with the assigned military occupational specialty, and/or position. All reserve personnel shall be required to attend regular training in fulfilment of their legal obligation.*

**Article 39  
(Rights and Responsibilities)**

*The rights and responsibilities of reserve personnel shall be regulated in accordance with the provisions of the Law on Service in the Armed Forces of Bosnia and Herzegovina and other regulations.*

This section of the Law regulating reserves has been amended to create a smaller, professional active reserve force that would be fully integrated within the Armed Forces of Bosnia and Herzegovina.

Article 35 has been added to clarify the role of the reserve forces and to define explicitly that role as one that complements the operational readiness of the armed forces.

Article 36 prescribes that there would be two types of reserves. The largest part of the reserve force would consist of professional military personnel who have completed their contractual obligation for regular, full-time military service. These fully-trained professionals would make up the backbone of the reserve force. It is proposed that these individuals would make up a general reserve to fill planned and unplanned vacancies – for example positions left vacant to be filled when required, positions left vacant due to illness or other un planned events, or platoons and companies to reinforce active units (such as infantry companies for infantry battalions).

This article also provides for the recruitment of a second type of reserve: persons with no prior military training that possess special expertise that is lacking in the regular professional force. It is proposed that these individuals would make up a reinforcement reserve that would provide specific capabilities when required – for example medical units, and other individuals that would fill the companies, platoons, and specialist units. Section 3.2 of this report describes in more detail how the reserve element of the Armed Forces of Bosnia and Herzegovina would contribute to a professional and sustainable military capacity.

Article 37 has been amended from the 2003 Law on Defence version to establish a limit on the size of the reserve force. This provision prescribes that the reserve force cannot exceed fifty percent of the professional force strength of the Armed Forces of Bosnia and Herzegovina. The ratio of reserve strength to regular forces is consistent with other NATO and Partnership for Peace countries. The limited size of the reserve would ensure that the reserve force can be properly trained and equipped to support the regular armed forces in a financially sustainable manner.

Articles 38 and 39 prescribe that all reserve personnel would be required to undergo regular training, and the rights and responsibilities of reserve personnel

shall be regulated in accordance with the Law on Service in the Armed Forces of Bosnia and Herzegovina.

These provisions are key elements to the creation of a professional and capable force. This reserve concept will help to maintain the operational readiness and complement the operational capabilities, as well as improve the sustainability of the Armed Forces of Bosnia and Herzegovina. This is opposite to the current system of reserves that contributes no military value and is not affordable within the scope of Bosnia and Herzegovina's limited resources and budgetary constraints.

**CHAPTER IV – DECLARATION OF STATE OF WAR OR STATE OF EMERGENCY**

**Article 40**

**(Declaration of State of War)**

*(1) The Presidency shall request a declaration of a state of war from the Parliamentary Assembly in the event of a direct attack on Bosnia and Herzegovina. A military attack on any part of the State by any military means and in any form shall be considered to be an attack on the entire State.*

*(2) In case of a direct attack on Bosnia and Herzegovina, the Parliamentary Assembly shall convene an emergency session as soon as possible in order to consider the request for declaration of a state of war.*

**Article 41**

**(Request for Declaration of State of Emergency)**

*The Presidency shall request a declaration of a state of emergency from the Parliamentary Assembly in the event of a threat to the existence of the State, a threat to the normal functioning of constitutional institutions, or an immediate war threat.*

**Article 42**

**(Declaration of State of War or State of Emergency)**

*(1) Upon the request of the Presidency, a declaration of a state of war or state of emergency shall be considered by the Parliamentary Assembly if it is in session at the time of the request.*

*(2) If the Parliamentary Assembly is not in session at the time of the request for declaration of a state of war or state of emergency, the Presidency may order the engagement of units of the Armed Forces or their employment.*

**Article 43**

**(Timelines for Deliberation)**

*(1) If there are justified reasons to declare a state of emergency, or in cases when the Presidency, due to urgency, has ordered the engagement of units of the Armed Forces in order to eliminate the reasons for declaration of a state of emergency, the Parliamentary Assembly shall convene an emergency session within 48 hours to consider the request for declaration of a state of emergency or the order to employ the Armed Forces.*

*(2) If the Parliamentary Assembly does not declare a state of emergency within 72 hours from the request by the Presidency of Bosnia and Herzegovina or an order for the engagement and employment of the Armed Forces, the request shall be considered rejected and the order void.*

These provisions regulate procedures for the declaration of a state of war or state of emergency and make clear that the Presidency of Bosnia and Herzegovina can determine whether there is a threat to the state and submit a request to the Parliamentary Assembly to declare war or a state of emergency. The Parliamentary Assembly must convene and issue a declaration within seventy-two hours from the request. These provisions remain unaltered from the 2003 Law on Defence. Some minor revisions, however, have been made to clarify and improve the text, which includes merging these provisions into fewer articles.

#### **CHAPTER V – NATURAL AND OTHER DISASTERS AND ACCIDENTS**

##### **Article 44 (Engagement)**

*(1) The Minister of Defence, upon the authorization by the Presidency, may employ the Armed Forces in response to natural and other disasters and accidents at the request of the appropriate civil authorities from the state or entities, on which he shall inform the Parliamentary Assembly.*

*(2) Units of the Armed Forces may be deployed to assist civil authorities in response to natural and other disasters or accidents in accordance with instructions issued by the Minister of Defence.*

##### **Article 45 (Mission Content)**

*An order to deploy units of the Armed Forces to assist civil authorities shall state as follows:*

- a) The specific nature of the mission,*
- b) The units and number of personnel deployed,*
- c) To whom the units report,*
- d) The duration of the mission.*

These articles provide for the use of the armed forces in support of civilian authorities in cases of natural disasters or accidents. The 2003 Law on Defence referred to the capacity of the entity presidents to authorise limited use of the entity armies in support of disaster or accident relief; in line with the state assumption of defence competencies this has now been eliminated. The content of these articles otherwise remains as in the 2003 Law with some minor technical amendments.

#### **CHAPTER VI – CONFLICT OF INTEREST AND PROFESSIONALISM**

##### **Article 46 (Person in Service)**

*A person in service in the Armed Forces shall protect and preserve government property and shall only use it for authorised purposes. A person in service shall*

*have the duty to disclose fraud and corruption involving persons in the chain of command.*

**Article 47**  
**(Conflict of Interests)**

*Professional military personnel in service in the Armed Forces shall not:*

- a) Hold a financial interest that conflicts with the conscientious performance of their duties,*
- b) Have an outside employment or engage in any other activities that conflict with official duties and responsibilities.*

**Article 48**  
**(Political and Public Activity)**

*(1) Members of the Armed Forces, including general officers, shall remain neutral in political matters, shall not engage in partisan political activities of any kind and shall not hold elected or appointed public office.*

*(2) This Article shall not prevent members of the Armed Forces from registering to vote, voting, or standing for election pursuant to the provisions of the Election Law of Bosnia and Herzegovina (BiH Official Gazette issues 23/01, 7/02, 9/02, 20/02, 25/02, 4/04, and 20/04).*

*(3) A member of the reserves who has been elected or appointed to public office shall not be required to resign from his office when engaged in regular training.*

**Article 49**  
**(Supporting General Framework Agreement for Peace in BiH)**

*Military personnel shall be expected to support the implementation of the General Framework Agreement for Peace in Bosnia and Herzegovina. Activities contrary to the General Framework Agreement for Peace in Bosnia and Herzegovina and obstructionism shall constitute grounds for removal.*

**Article 50**  
**(Service Ban)**

*(1) Officers of any rank shall not be permitted to serve in the Armed Forces or to be employed in the Ministry of Defence after serving in another country's armed forces.*

*(2) Members of the Armed Forces shall not be members of other countries' armed forces, nor any other military or paramilitary forces, and they shall not be recruited by other countries.*

*(3) Provisions from paragraph (1) of this Article shall not apply to officers of any rank who were admitted into professional military service in entity armies prior to this Law's entry into force.*

**Article 51**  
**(Code of Conduct)**

*The Minister of Defence may prescribe a code of conduct for members of the Armed Forces.*

This section defines the responsibilities of the members of the Armed Forces of Bosnia and Herzegovina whilst they are in service. These provisions remain substantively unaltered from the 2003 Law on Defence. Some minor revisions have been made to clarify and improve the text.

Article 51 provides the competency of the minister of defence to render a code of conduct for members of the armed forces. This is an important element of professionalisation and personnel management. The obligation for all personnel within the armed forces to act with integrity and abide by a set of values and ethics is described in greater detail in the commentary to Chapter Eight of the Law on Service in the Armed Forces of Bosnia and Herzegovina.

## **CHAPTER VII – OFFICE OF THE INSPECTOR GENERAL**

### **Article 52 (Office of the Inspector General)**

- (1) The Office of the Inspector General is an organizational unit of the Ministry of Defence.*
- (2) The Office of the Inspector General shall be headed by the Inspector General who shall be a professional military person with a general officer rank and shall be appointed to this duty in accordance with this Law.*
- (3) The Inspector General may, upon the approval of the Minister of Defence and as required, employ additional inspectors as necessary for the fulfilment of the responsibilities of the Office of the Inspector General.*

### **Article 53 (Competencies)**

- (1) The Office of the Inspector General shall ensure that military personnel of the Ministry of Defence and Armed Forces is fully aware of and in compliance with Section VI of this Law, as well as with any code of conduct or regulation regarding ethical behaviour and professionalism adopted by the Minister of Defence.*
- (2) For that purpose, the Office of the Inspector General shall have the following competencies:*
  - a) Training and education of professional military personnel of the Ministry of Defence and Armed Forces in professionalism and ethics,*
  - b) Initiating, conducting, supervising, and monitoring inquiries and investigations into alleged misconduct of professional military personnel in the Ministry of Defence and Armed Forces,*
  - c) Advising the Minister of Defence regarding the elimination of conditions detrimental to the morale, efficiency and reputation of the Armed Forces,*
  - d) Recommending regulations and coordinating the establishment of professional standards and rules of ethical management, in order to improve professionalism, ethical behaviour and personal capabilities of military personnel of the Ministry of Defence and Armed Forces.*

### **Article 54 (Complaints and Assistance)**

- (1) All professional military personnel of the Armed Forces and other citizens of Bosnia and Herzegovina may file complaints or requests for assistance with the Office of the Inspector General regarding matters within its competence.*
- (2) The Inspector General shall propose to the Minister of Defence instructions establishing appropriate procedures for the implementation of this Article. Such instructions shall be designed to promote public confidence in the ethical conduct and professionalism of professional military personnel in the Ministry of Defence and Armed Forces.*

This section is a new addition to the Law on Defence and establishes the Office of the Inspector General as an organisational unit of the ministry of defence, and prescribes its competencies and the foundation for a system of complaints and assistance. This office already exists as part of the organisation and systematisation of the Ministry of Defence of Bosnia and Herzegovina, but its inclusion in this Law is important as it provides the legislative framework for its competencies.

The Office of the Inspector General is an integral part of professionalisation. Article 53 stipulates the responsibility to advise on all aspects of work that effect the ethical behaviour and professionalism of armed forces personnel. In particular, the competency to recommend regulations and co-ordinate the establishment of professional standards in order to improve professionalisation and the personal capability of military personnel is integral to efficient and effective armed forces.

The Office of the Inspector General is independent and objective, and is designed to conduct and supervise inquiries and investigations into alleged misconduct and abuse of authority within the ministry of defence and Armed Forces of Bosnia and Herzegovina. As such it is an important element of the promotion of public confidence in the ethical conduct and professionalism of all military personnel in service.

#### **CHAPTER VIII – OATH**

##### **Article 55 (The Oath)**

*A person entering the Armed Forces for the first time shall take the following oath:*

*“I solemnly pledge to defend the sovereignty, territorial integrity, constitutional order, and political independence of Bosnia and Herzegovina and to carry out, responsibly and conscientiously, all duties necessary for its defence.”*

This section prescribes the oath that all members of the Armed Forces of Bosnia and Herzegovina are obliged to swear upon their accession into the military. This has remained unaltered from the 2003 version of the Law on Defence.

#### **CHAPTER IX – FLAGS, ANTHEMS AND MILITARY INSIGNIA**

**Article 56**  
**(Flag, Anthem and Insignia of the Armed Forces)**

- 1) *The Armed Forces shall have their flag, anthem and insignia. The flag and anthem shall be the flag and national anthem of Bosnia and Herzegovina and the insignia shall be the flag of Bosnia and Herzegovina.*
- 2) *The insignia shall be worn by all members of the Armed Forces. Use of the flag and national anthem shall be obligatory for the Armed Forces.*

**Article 57**  
**(Flags and insignia of Regiments, Brigades, Units and Institutions of the Armed Forces)**

- 1) *Regiments shall have their own flags and insignia.*
- 2) *Brigades, units, and institutions of the Armed Forces may have their own flags and insignia.*
- 3) *General officers shall not wear regimental insignia.*
- 4) *The Minister of Defence shall issue regulations on the design of flags and insignia covered in paragraphs (1) and (2) of this article.*
- 5) *The Presidency of BiH shall be responsible for approving flags and insignia covered in paragraphs (1) and (2) of this article upon the recommendation of the Minister of Defence.*

**Article 58**  
**(Prohibition)**

*No person shall be allowed to reproduce or use any insignia of the Armed Forces without the written authorisation of the Minister of Defence.*

This section prescribes the flag, anthem, and military insignia of the Armed Forces of Bosnia and Herzegovina. It remains substantively unchanged from the 2003 Law on Defence, except from some minor technical amendments. Article 57, however, has been revised to reflect the creation of the regimental structure of the armed forces and provides that regiments are allowed to have their own flags and insignia. Brigades, units, and institutions of the armed forces may have their own flags and insignia, and the minister of defence shall issue regulations on the design of these flags and insignia. This article also prescribes that General Officers shall not wear regimental insignia; this is a common regulation in many armies around the world and denotes that they are deemed to have left the ranks of their originating regiment for the higher office and command of General Officer service.

**CHAPTER X – TRANSITIONAL AND FINAL PROVISIONS**

This chapter provides for transitional and final provisions, and in particular regulates the transfer of defence competencies and personnel from the entities to the state. The nature and scope of this transfer merits some explanation.

The transition to a single state-level defence establishment necessitates the closure of entity ministries of defence and general staff commands. This is an extremely complex process entailing the assumption of all entity defence functions by appropriate state-level defence institutions and the assignment of professional military personnel, civil servants, and other civilian employees currently working in entity defence institutions and armies to state-level employment.

This transfer must occur without loss of functionality, with as little disruption as possible, in a manner that retains the expertise currently found in the entity armies and defence institutions. A transfer of this magnitude, with its complex and interrelated personnel, organisational, operational, administrative, financial and political factors, clearly requires careful consideration in order to devise practicable methods and procedures of transfer that can be prescribed in Law. The Defence Reform Commission, on the basis of its comprehensive consideration of this issue has devised what it believes to be the optimum transfer model, in consideration of the scope of the task and requirement to effect the transfer with minimal disruption, ensuring the highest level of functionality.

This chapter of the Law incorporates the policy decision to transfer the legal responsibility for all civil servants, military professionals, civilian employees, and entity army members currently employed by the entities to state level on the same date. These personnel would initially remain in their current positions to allow for a wide range of preparatory work, and once this work is complete they would be legally transferred to state-level employment. During the transition phase, these personnel would be assigned to positions within restructured and expanded state-level defence institutions through an internal selection and nomination process. Together with the legal transfer of personnel to state-level employment, legal responsibility for all defence functions currently undertaken by the entities would also be assumed by the state. Current arrangements for the execution of those functions would be retained at the beginning of the transition period. Once restructured and expanded state-level institutions have been developed the manner in which functions are executed would be taken over by those institutions.

The process of transition commences in the following steps. Once the Law on Defence and Law on Service in the Armed Forces of Bosnia and Herzegovina have been adopted by the Parliamentary Assembly and after their entry into force eight days after publication in the Official Gazette, there would be a time period before the transfer of defence competencies, personnel, and financial obligations to the state. This transfer would occur on 01 January 2006. At this point the process and period of transition would commence.

The time period after the entry into force of the laws and before the transfer and commencing of the transition process is necessary for a number of important reasons. It would allow for preparatory measures to be undertaken: such as the development of regulations, rule books, analyses, implementation plans, and timelines. Moreover, from a budgetary perspective this allows a clear break between the current budget year and the new budget year as of January 2006. From an organisational, administrative, and procedural perspective this time period is important as the scope of preparatory work should not be underestimated.

Lastly, a Transition Implementation Expert Team would be established, under the direction of the Ministry of Defence of Bosnia and Herzegovina, to plan, organize, assist, and monitor the process of transfer and transition. This would provide a valuable and dedicated resource to the ministry of defence and allow a team of experts to work solely on transition related issues.

***SECTION A – Transition Implementation Expert Team***

***Article 59***

***(Establishment and Tasks of Expert Team)***

*(1) In accordance with this Law, the Minister of Defence shall establish a Transition Implementation Expert Team (hereinafter: the Expert Team) within 15 days from the day of entry into force of this Law.*

*(2) The Expert Team shall report to the Minister of Defence and shall carry out the following tasks upon his orders and instructions:*

- a) Planning, organising, assisting and monitoring the process of the takeover of defence functions from Article 66 of this Law to state level,*
- b) Submitting written proposals and recommendations to the Minister of Defence on all issues related to the process of transition, and*
- c) Other duties as assigned by the Minister of Defence.*

*(3) The Minister of Defence shall prescribe duties, tasks, composition and the duration of the mandate.*

(4) *The Expert Team shall issue Terms of Reference.*

**Article 60**  
**(Reporting on Transition Process)**

(1) *The Expert Team shall report to the Minister of Defence on the transition process on monthly basis and as required.*

(2) *Based on the report from paragraph (1) of this Article, the Minister of Defence shall brief the Presidency, Council of Ministers and the relevant Commission of the Parliamentary Assembly.*

(3) *All personnel of the Ministry of Defence, Joint Staff, Commands, and members of the Armed Forces shall give full support to the Expert Team in accordance with directives and instructions issued by the Minister of Defence.*

These articles provide for the establishment of the Transition Implementation Expert Team and prescribe its competencies and composition.

Article 59 establishes the team and defines its responsibilities to plan, organize, assist, and monitor the process of the transfer of defence functions to state level. The Transition Implementation Expert Team would provide dedicated staff with the expertise and resources to develop and implement workable plans and with the experience and high-level support necessary to deal with complex issues in a flexible, deliberate, and pragmatic manner. To ensure maximum flexibility, this provision prescribes only a broad area of responsibility; its detailed terms of reference, listing duties, duration of mandate, and procedures would be issued by the minister of defence. This would ensure that the body is responsive to the requirements and direction of the minister.

This article allows the minister of defence to define the composition of the team. It has been proposed that the team would comprise of a small number of expert personnel, plus support staff. Smaller teams would be established for detailed tasks and would be located at the state-level and former entity ministries of defence, working in accordance with the plans developed by the core staff and providing support to the ministry of defence. It is suggested that the team should draw on personnel from the ministry of defence, on experts from other institutions, and on expertise available from within the international community. The participation of former entity ministry of defence, general staff command, or army personnel would also be considered. However, the minister of defence would have the exclusive competency to decide on the composition of this team.

Article 60 establishes the reporting obligation of the team and of the minister of defence to brief the Presidency, Council of Ministers, and the Parliamentary Assembly of Bosnia and Herzegovina. Regular reporting from the team to the minister would ensure that the team is responsive to the needs of the ministry, and regular briefing mechanism from the minister to political institutions is a central tenet of democratic oversight.

**SECTION B – Status of Civil Servants and Employees**

**Article 61**

**(Regulation of Status of Civil Servants and Employees)**

*(1) Notwithstanding provisions of Article 19, paragraph (4), and Article 32a of the Law on Civil Service in the Institutions of Bosnia and Herzegovina (BiH Official Gazette 19/02, 35/03, 14/04, 17/04, 26/04, and 37/04), on 1 January 2006, all civil servants from the former entity ministries of defence shall become civil servants in the Ministry of Defence to whom the Law on Civil Service in the Institutions of Bosnia and Herzegovina shall apply, with the following exemptions:*

- a) Article 15, paragraph (1), items a) and d) shall not apply,*
- b) Chapter IV- except Articles 22, 30. and 31, shall not apply, and*
- c) Chapter V – except Articles 38, 39. and 41, shall not apply,*
- d) Article 51, paragraphs (1) and (2), shall not apply.*

*(2) Exemptions listed in paragraph (1) of this Article shall continue to apply until a final decision on the status of civil servants in the Ministry of Defence is rendered by the Minister, following the selection process prescribed in Article 63 of this Law.*

*(3) On 1 January 2006, all employees/employed personnel of the former entity Ministries of Defence shall become employees of the Ministry of Defence and therefore subject to the Law on Labour Relations in the Institutions of Bosnia and Herzegovina (BiH Official Gazette 26/04, and 07/05)*

*(4) On the date referred to in paragraphs (1) and (3) of this Article, the Books of Rules on the Internal Organization and Job Classification of the entity Ministries of Defence shall become part of the Book of Rules on the Internal Organization and Job Classification of the Ministry of Defence. The civil servants and employees referred to in paragraphs (1) and (3) of this Article shall continue to perform their previous duties and tasks insofar as that is not contrary to this Law, until the Minister of Defence of Bosnia and Herzegovina renders a final decision on their status in the Ministry of Defence following the selection process from Article 63 of this Law.*

*(5) The civil servants and employees referred to in paragraphs (1) and (3) of this Article shall retain their posts, salaries and allowances until the Minister of Defence issues the final decision on their status in the Ministry of Defence, following the selection process referred to in Article 63 of this Law.*

*(6) Civil servants and employees of the Ministry of Defence who have been released from duty as redundant in accordance with the decision of the Minister of Defence from Article 64 of this Law, rendered after the completion of the selection process from Article 63 of this Law, shall be entitled to a severance pay in the amount of six monthly salaries, or 12 monthly salaries for those civil servants who have at least 15 years of professional experience.*

Article 61 regulates the status of employees and provides for their transfer to state-level employment. It prescribes the transfer of all entity civil servants to

state-level civil servant status in the Ministry of Defence of Bosnia and Herzegovina, including temporary exemptions to the Law on Civil Service of Bosnia and Herzegovina necessary to effect the transfer. It also provides for the transfer of all other personnel in service in the entity armies and other civilian staff employed by the entities. The legal transfer of all employees would take place on 01 January 2006. Employees would continue to execute their current tasks and the basis for this would be provided by the amalgamation of the current entity books of rules on organisation and systemisation of posts into the Book of Rules on Internal Organisation and Systemisation of the Ministry of Defence of Bosnia and Herzegovina. This book of rules would be temporary until an amended book of rules is developed for restructured institutions and posts as envisaged in Article 65 of this Law. All employees would retain their status and posts, as envisaged by this temporary rule book, as well as salaries until the final decision on their status, including assignment in re-organised and restructured institutions. For civil servants, at this point the exemptions to the Law on Civil Service of Bosnia and Herzegovina would no longer be needed.

In the transition period, personnel would continue to perform their current jobs until the end of a selection and nomination process [described below in the commentary to Article 63] that would be conducted internally within the Ministry of Defence of Bosnia and Herzegovina. This process would place former entity ministry of defence personnel into appropriate positions within the restructured and expanded state defence institutions.

**Article 62**  
**(Employment Ban)**

*Entity Ministries of Defence and Ministry of Defence shall not be able to employ new civil servants and employees/employed personnel from the day of entry into force of this Law until the day of transfer of civil servants and employees as set forth in Article 61, paragraphs (1) and (3) of this Law.*

**Article 63**  
**(Selection Process)**

*(1) Upon the proposal of the Expert Team, the Minister of Defence shall appoint one or more selection commissions. In the appointment phase, the Minister shall be obliged to consider the ethnic background, gender, level of education, and professional skills of the persons to be appointed to the selection commission. Each commission shall consist of three members. The Minister of Defence shall issue a Decision on the Work of Selection Commissions regulating the composition of selection commissions, their method of work, selection criteria and procedure.*

(2) Prior to the establishment of a selection commission pursuant to paragraph (1) of this Article, the Minister of Defence shall review all commission members to ascertain that they meet the criteria set forth in paragraph (3) of this Article.

(3) A Selection Commission shall be responsible to determine if civil servants and employees of the Ministry of Defence meet the requirements for employment with the Ministry of Defence set forth in relevant regulations, as well as other criteria determined by the Minister of Defence and approved by the Council of Ministers of Bosnia and Herzegovina.

(4) The Minister of Defence may appoint international experts as co-opted members of a Selection Commission. The international experts shall only have an advisory role with regard to the work of the Commission and shall have no voting rights in the decision-making process.

(5) A Selection Commission shall submit proposals for all civil servants and employees of the Ministry of Defence, together with a report, to the Minister of Defence for his consideration before he makes a decision from Articles 64 and 65 of this Law.

#### **Article 64**

##### **(Decision on Status of Civil Servants and Employees)**

After the completion of the selection process from Article 63 of this Law, the Minister of Defence shall make a decision on the status of all civil servants and employees of the Ministry of Defence in accordance with the report from Article 62, paragraph (5) of this Law.

#### **Article 65**

##### **(Rendering of Book of Rules on Internal Organization and Job Classification)**

(1) The Minister of Defence shall prepare and submit to the Council of Ministers of Bosnia and Herzegovina an amended Book of Rules on Internal Organization and Job Classification for approval within 30 days from this Law's entry into force.

(2) After the adoption of the Book of Rules from paragraph (1) of this Article, the Minister of Defence shall appoint selected civil servants and employees to the envisaged posts.

Article 62 prescribes a prohibition on the employment of new civil servants and other employees from the day of entry into force of this Law until the legal transfer of personnel on 01 January 2006. This action would ensure that employees nominated and selected in new positions in restructured institutions would come from the existing pool of expertise in entity defence institutions. It would also not raise the number of people that would be transferred to state employment, which is important from a budgetary and organisational perspective.

Article 63 prescribes the procedures of the selection process, it establishes the competency of the minister of defence to establish selection committees to review personnel and submit their proposals to the minister of defence for the final decision on the nomination and selection of personnel to fill positions. The minister of defence would issue terms of reference regulating the composition of

the commissions, their method of work, selection criteria and procedures. The selection commissions would carry out the evaluation of all personnel in the ministry of defence, based on criteria and the procedures defined in the aforementioned terms of reference, and would submit their proposals, and their report, to the minister of defence. The restructured and expanded state defence institutions would be filled on the basis of these recommendations and the remaining staff (those not selected) would be declared surplus and dismissed. Staff dismissed would be entitled to a severance payment, as determined by Article 61(6), amounting to six or twelve monthly salaries depending upon their years of professional experience.

Article 64 reaffirms that once the selection commissions have made their proposals for the nomination and selection of personnel, the minister of defence would make a final decision on the status of all civil servants and employees of the ministry of defence.

Article 65 prescribes the requirement for the minister of defence to submit an amended Book of Rules on Internal Organisation and Systematisation for approval by the Council of Ministers of Bosnia and Herzegovina. This book of rules would contain a final systematisation of re-organised and restructured posts in the Ministry of Defence, Joint Staff, Operational Command, and Support Command of Bosnia and Herzegovina. On this basis, personnel would be assigned to new positions.

### ***SECTION C – Transfer of Functions***

#### ***Article 66***

##### ***(Plan for Transfer of Functions)***

*(1) By 1 January 2006, on the basis of the proposal by the Expert Team, the Minister of Defence shall issue a Plan for the Transfer of Functions.*

*(2) After the transfer of functions, the Minister of Defence, with the assistance of the Expert Team, shall insure full implementation of the Plan from paragraph (1) of this Article.*

#### ***Article 67***

##### ***(Chain of Command during Transition)***

*(1) As of 1 January 2006, the Commander of the Joint Command of the BiH Federation Army and the Chief of the General Staff of the Army of the Republika Srpska shall be directly accountable to the Chief of the Joint Staff of the Armed Forces of Bosnia and Herzegovina until the Joint Command of the BiH Federation Army and the General Staff of the Army of the Republika Srpska are abolished.*

(2) *The Commander of the Joint Command of the Federation Army and the Chief of the General Staff of the Army of the Republika Srpska shall have no operational command authority.*

**Article 68**

***(Temporary Management of Former Entity Ministries of Defence)***

*The Minister of Defence shall, no later than 1 January 2006, select one person for each of the former entity ministries of defence, to perform tasks and duties necessary to ensure efficient management of the former entity ministries until the end of the transition process.*

These articles prescribe the assumption of defence competencies from their current execution by entity defence institutions to state level.

Article 66 stipulates the requirement of the Transition Implementation Expert Team to develop a proposal for the transfer of functions that would be issued by the minister of defence. The transfer of functions would occur on 01 January 2006 and the minister of defence is responsible to issue the transfer plan by that date.

Once the state assumes legal responsibility for the execution of functions, the Minister of Defence of Bosnia and Herzegovina must decide how each of the former entity functions would be executed in the future. In the meantime, functions would be continued to be executed by the former entity defence institutions in the manner that they are currently. However, as all defence functions and personnel would be transferred to the state, from the date of this transfer the state would *de jure* and *de facto* execute these functions.

During the transition period, the state would re-organise the execution of functions through restructured defence institutions. Functions would continue to be assumed until the process of re-organisation is complete – which includes the reallocation of personnel and functions. Those institutions would be staffed by personnel who were already serving at the state level at the time of the transfer, and by personnel who were transferred from the entity level and subsequently assigned to positions through the selection and nomination process described in the previous commentary to Article 63 of the Law on Defence.

Article 67 prescribes the chain of command during the transition period. As stated, on 01 January 2006 the state would assume all legal responsibility for all

functions and personnel; this would mean that the organisational units in the entities, particularly the entity ministries of defence, would cease to exist in a legal sense as they would become part of the state ministry of defence. Accordingly, this provision prescribes that the former Commander of the Joint Command of the Army of the Federation of Bosnia and Herzegovina and the Chief of the General Staff of the Army of Republika Srpska would report directly to the Chief of the Joint Staff of the Armed Forces of Bosnia and Herzegovina. This would continue until such time as personnel and functions are reassigned as part of the restructured and re-organised state institutions and the Joint Command and General Staff of the entities are organisationally dismantled and incorporated in restructured institutions.

Article 68 describes the management of the former entity ministries of defence once the legal transfer of functions and personnel has occurred. On 01 January 2006, the position of entity minister of defence would no longer exist or have any authority to act in defence matters. Consequently, a replacement manager would be required to secure a capacity for the continued management of the former entity ministries of defence as organisational units part of the Ministry of Defence of Bosnia and Herzegovina. This article allows the Minister of Defence of Bosnia and Herzegovina to appoint a caretaker manager in each of the former entity ministries to whom orders and direction could be conveyed. These caretaker managers would assume the administrative functions of the former ministers and would report and be answerable to the BiH Ministry of Defence for all matters. These managers would remain in place until functions and personnel are reassigned as part of the restructured and reorganised state institutions.

***SECTION D – Transfer of Property, Assets and Archives***

***Article 69***

***(Transfer of Movable Property, Archives, Files and Other Documents)***

*(1) On the day of entry into force of this Law, the Ministry of Defence and entity Ministries of Defence, shall begin compiling all movable property data into a comprehensive inventory list of movable property in their possession used for defence purposes, including, inter alia, archives, files and other documents, (hereinafter: Movable Property). The comprehensive inventory lists shall be delivered to the Ministry of Defence within thirty (30) days.*

*(2) Within thirty (30) days following receipt of the comprehensive inventory lists, the Expert Team shall propose to the Ministry of Defence a plan for further status of*

*all Movable Property that will continue to serve defence purposes, to include a proposals of the manner, method and timelines for the final allocation of all rights and responsibilities related to Movable Property.*

*(3) On 1 January 2006, the Ministry of Defence shall assume the right of possession over all Movable Property from paragraph (2) of this Article, including the archives, files and other documents that continue to serve defence purposes.*

Article 69 regulates the transfer of movable property from the entities to the state, including archives, documents, and files. This article prescribes that before the date of transfer, on 01 January 2006, the ministry of defence and the entity ministries of defence would compile a comprehensive inventory of all defence movable property, including archives, files, and documents. The Transition Implementation Expert Team would propose a plan for the further handling of all movable property, including the manner, method and timelines for the final allocation of all rights. On 01 January 2006, the Ministry of Defence of Bosnia and Herzegovina would assume the right of possession of all movable property, including archives, files, and other documents that serve defence purposes. Clearly, the state must assume the legal competency for the management and use of all defence-related movable property in order to conduct effectively the day-to-day business of the competencies currently undertaken by the entities within the administrative chain of command. This is an important factor in ensuring the capacity to conduct all assumed competencies.

**Article 70**  
**(Transfer of Immovable Property)**

*(1) On the day of the entry into force of this Law, the Ministry of Defence and the entity ministries of defence shall begin compiling all data on immovable property into an inventory list of immovable property used for the needs of defence, for which the rights of management, disposal, use, or ownership are held by the BiH Federation, the Government of the Republika Srpska, the Government of the BiH Federation, the defence ministries, the Army of the Republika Srpska, the Army of the BiH Federation or another body of Bosnia and Herzegovina, or any administrative subdivision thereof (hereinafter referred to as: Immovable Property). The competent institutions shall deliver the comprehensive inventory lists of Immovable Property to the BiH Ministry of Defence within sixty (60) days of the entry into force of this Law, but no later than by 31 December 2005.*

*(2) Within thirty (30) days from receipt of the comprehensive inventory lists of Immovable Property, the Expert Team shall propose to the BiH Defence Ministry a plan for the final status of all Immovable Property that will continue to serve defence purposes, in accordance with the applicable regulations.*

*(3) On 1 January 2006, the Ministry of Defence shall begin to use and enter in possession of all Immovable Property from paragraph (2) of this Article.*

Article 70 regulates the transfer of immovable property from the entities to the state. This provision prescribes that before the date of transfer on 01 January 2006, the ministry of defence and entity ministries of defence would compile a comprehensive inventory of all defence immovable property. This property would include all immovable property for which the rights of management, disposal, use, or ownership are held by the entities and other bodies. On the basis of this list, the Transition Implementation Expert Team would propose a plan for the final status of all immovable property that would continue to serve defence purposes. This inventory should identify the title-holders of this property, the appropriate authority for disposal, use, and the legal protection of this property. This proposal should also include a needs assessment for all immovable property. On 01 January 2006, the Ministry of Defence of Bosnia and Herzegovina would begin to use and enter into possession of all immovable property as identified in the plan developed by the Transition Implementation Expert Team. Issues of ownership over immovable property would be informed by the findings and recommendations of the Commission on State Property of Bosnia and Herzegovina. Plans and procedures to assume possession of property can be determined pursuant to the findings of the Commission. The state must assume rights and ownership over immovable property in order to conduct effectively newly assumed competencies as the control, management, and use of property as a defence resource is important to the effective functioning of the Ministry of Defence of Bosnia and Herzegovina and other defence institutions.

**Article 71**  
***(Transfer of Other Rights and Obligations)***

*(1) Within 30 days of this Law's entry into force, the Ministry of Defence and the entity ministries of defence shall make a comprehensive inventory list of other rights and obligations of the former entity ministries of defence, as of January 1 2006, and propose a plan for the transfer of other rights and obligations to the Ministry of Defence.*

*(2) Unless otherwise determined by the plan for the transfer of other rights and obligations from paragraph (1) of this Article approved in accordance with Article 74 of this Law, the entity governments shall remain accountable for all debts, encumbrances and other liabilities of entity ministries of defence incurred by 1 January 2006.*

*(3) The governments of the entities shall not be entitled to compensation, contribution or indemnification from Bosnia and Herzegovina in relation to the transfer of other rights and obligations, except as authorized by the Council of Ministers of Bosnia and Herzegovina or Parliamentary Assembly.*

Article 71 regulates the transfer of other rights and obligations that encompass other elements not classified under movable or immovable property. These rights and obligations entail such items as on-going contracts, intellectual property ownership and usage rights, as well as other items that may arise and as yet are unforeseen. This provision prescribes that before 01 January 2006 the Ministry of Defence of Bosnia and Herzegovina shall make a comprehensive list of other rights and obligations of the former entity ministries of defence and propose a plan for the transfer of other rights and obligations to the ministry of defence. On 01 January 2006, the state would assume responsibility for these rights and obligations.

This article stipulates that all debts, burdens, and other liabilities incurred by the entities before the assumption of all defence competencies by the state on 01 January 2006 would remain with the entities and not be transferred to the state. Entity governments would not be entitled to compensation, contribution or indemnification from the State of Bosnia and Herzegovina in relation to the transfer of these other rights and obligations, apart from exceptions as authorised by the Council of Ministers or Parliamentary Assembly of Bosnia and Herzegovina.

**Article 72**

***(Agreement on Transfer of Property Rights)***

*(1) The Ministry of Defence shall present the plan for final takeover of the property referred to in Article 69, paragraph (3), Article 70, paragraph (3), and Article 71 to the Council of Ministers of Bosnia and Herzegovina for approval.*

*(2) Upon the approval by the Council of Ministers of Bosnia and Herzegovina and within the period of sixty (60) days, but no later than by 31 December 2005, the Ministry of Defence shall submit agreements, decisions, resolutions or other relevant instruments required for final takeover of all rights and liabilities related to the movable and immovable property to the Council of Ministers of Bosnia and Herzegovina, and Republika Srpska and BiH Federation governments for signature.*

**Article 73**

***(Ban on Disposal of Property)***

*(1) Any disposal with the property referred to in Articles 69, paragraph (3), 70, paragraph (3) and 71 of this Law, shall be prohibited from the day of this Law's entry into force until the effective day of an agreement, decision, resolution or another relevant instrument from Article 72 of this Law, finalizing the transfer of property rights from the former entity defence ministries to the Ministry of Defence.*

These articles provide the mechanism for the transfer of property rights over movable and immovable property. Article 72 prescribes that the Ministry of Defence of Bosnia and Herzegovina would present a plan to the Council of Ministers of Bosnia and Herzegovina for the final assumption of immovable, movable

property, archives, files, and other documents. Accordingly, once the Council of Ministers approves this plan, the ministry of defence would submit agreements and decisions required for the final takeover of all rights and liabilities related to all property. These agreements and decisions would be submitted to the Council of Ministers of Bosnia and Herzegovina and the entity governments.

Article 73 provides for a ban on the disposal of movable and immovable property, and other rights and obligations from the day of entry into force of this Law until agreements and decisions are made that finalise the transfer of property rights from the former entity ministries of defence to the state.

#### **SECTION E – Budgetary and Financial Issues**

##### **Article 74 (2006 Defence Budget)**

*1) Starting with the fiscal year 2006, all budget preparation, enactment, execution, accounting, reporting and supervision activities for the Ministry of Defence and Armed Forces shall be done in accordance with the Law on Financing of the Institutions of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina 61/04).*

*2) For the purpose of Article 11 of the Law on Financing of the Institutions of Bosnia and Herzegovina, temporary financing for fiscal year 2006 shall be calculated based on the 2005 “overall defence budget for Bosnia and Herzegovina” as defined in Article 46 of the Defence Law (Official Gazette of Bosnia and Herzegovina 43/03).*

##### **Article 75 (2005 Entity Defence Budgets)**

*1) Liabilities incurred by the entities and budgeted by 31 January 2006 as proposed expenditures from 2005 entity defence budgets shall remain a liability of the respective entity and shall not be assumed by Bosnia and Herzegovina unless so expressly agreed between the Council of Ministers of Bosnia and Herzegovina and the government of the relevant entity.*

*2) Liabilities incurred by the entities in 2005 and not budgeted in the 2005 defence budget shall be covered by the entity governments – entity Ministry of Finance. Based on documentation reviewed by the persons from Article 68 of this Law, these liabilities shall be submitted for book entry and settlement to the entity ministries of finance.*

*3) The Minister of Defence shall offer assistance to the entity authorities that assume responsibility for closing the entity defence budgets for the fiscal year 2005 after 1 January 2006.*

##### **Article 76 (Prohibition of Assumption of Liabilities)**

*1) From the day of adoption of the law until 1 January 2006, the entity ministries of defence shall be prohibited from making contracts or assuming liabilities that cannot be fully paid from the 2005 defence budget.*

*2) As an exception to the provision from paragraph (1) of this Article, the BiH Minister of Defence can, in exceptional cases and when it is required to ensure continuous functioning and work of the Armed Forces, allow for such contracts to be made.*

**Article 77**  
**(Other Financial Liabilities)**

*By 1 April 2006, the Transition Implementation Expert Team shall prepare an analysis of all financial issues not covered by the provisions of the law and submit to the Minister of Defence a report and recommendations to address these issues.*

These provisions describe the process for the state to assume financial responsibilities connected to its assumed responsibilities for competencies and personnel. The Ministry of Defence of Bosnia and Herzegovina would incur increased costs, financial responsibilities and liabilities as a result of the transfer of functions and personnel, and provision must be made to plan for these within the 2006 defence budget.

Article 74 determines the competency of the state to prepare and execute budgetary responsibilities for defence, which would be regulated by Article 11 of the Law on Financing of the Institutions of Bosnia and Herzegovina. This provides that if the Parliamentary Assembly of Bosnia and Herzegovina does not adopt a budget law before the beginning of the fiscal year, the financing will be temporary until the Law on Budget for 2006 comes into force. This would be calculated based on the 2005 overall [state plus entities] defence budget.

Article 75 prescribes that liabilities incurred by the entities by 31 January 2006, and budgeted as a proposed expenditure from the 2005 defence budget, shall remain a liability of the entities and shall not be assumed by the State of Bosnia and Herzegovina unless otherwise agreed.

Although the state would assume competency for all defence functions and personnel on 01 January 2006, there would still be items that must be paid from the previous budget year, including salaries and other costs. It would take a short period of time to reconcile these expenditures and close out the 2005 entity budgets; consequently, the 31 January 2006 has been proposed to allow time to finalise these. Likewise, all liabilities not budgeted for in 2005 and incurred by the entities would remain with the entities.

As of 01 January 2006 the entity ministries of defence would no longer exist, and given that the liabilities mentioned above would remain with the entities, it may be necessary that the Ministry of Defence of Bosnia and Herzegovina pro-

vides administrative or organisational assistance to the entities to finalise these payments. The ministry of defence would be well-placed to offer this assistance as it would have assumed expert personnel from the entity ministries of defence that worked on the entity budgets in 2005.

Article 76 prescribes a prohibition on the entity ministries of defence to enter into any contract or assume any liability that cannot be fully reconciled within the 2005 entity defence budgets. As a pragmatic management capacity, however, the Minister of Defence of Bosnia and Herzegovina can prescribe exceptions to allow for such contracts to be made.

Article 77 stipulates the requirement that the Transition Implementation Expert Team should prepare an analysis of all financial issues not covered in this Law, together with recommendations to address these issues, for the consideration of the Minister of Defence. This provides flexibility and is a pragmatic approach to the assumption of competencies and personnel that might produce unforeseen financial costs and liabilities.

#### ***SECTION F – Military Obligation***

##### ***Article 78 (Abolition of Military Obligation)***

*The military obligation regulated by entity laws shall be abolished on the whole territory of Bosnia and Herzegovina on 1 January 2006.*

##### ***Article 79 (Records Related to Military Obligation)***

*1) Records of persons who have regulated their military obligation in either entity shall be transferred to the appropriate body of administration in the entities, cantons or municipalities.*

*2) Record of professional military personnel whose service in the Army of the Republika Srpska or the Army of the Federation of Bosnia and Herzegovina expired after 1 January 2002 shall be transferred to the Ministry of Defence.*

Article 78 prescribes that the military obligations regulated by entity law would be abolished across the entire territory of Bosnia and Herzegovina on 01 January 2006.

Article 79 prescribes that the records and registries of all persons that have completed their general military obligation in either entity shall be transferred to the appropriate body of administration in the entities, cantons or municipalities.

The records of professional military personnel whose service expired after 01 January 2002 would be transferred to the Ministry of Defence of Bosnia and Herzegovina to serve as a recruiting base for the new active reserve force.

**SECTION G – FORCE STRUCTURE AND STATIONS**

**Article 80  
(Force Structure & Stations)**

- 1) The size, structure, and distribution of the new Armed Forces shall be proposed by the Minister of Defence and adopted by the Presidency no later than 1 July 2006.*
- 2) Brigade headquarters and the battalions assigned to them shall be formed and stationed no later than 1 July 2007.*
- 3) Infantry regiments and their regimental headquarters shall be formed and stationed no later than 1 July 2007.*
- 4) All other regiments and services shall be formed and stationed no later than 31 December 2007.*

Article 80 stipulates that the Presidency of Bosnia and Herzegovina must adopt the size, structure, and distribution of the Armed Forces of Bosnia and Herzegovina by 01 July 2006. Likewise, it prescribes time periods in which brigade headquarters and battalions, infantry regiments and their headquarters, and all other regiments and services should be formed and stationed. These staggered dates are such in recognition of the scope of the task to reorganise the Armed Forces of Bosnia and Herzegovina into their new structures.

**SECTION H – Legal Regulations**

**Article 81  
(Cessation of Legal Regulations)**

- (1) On 1 January 2006, in accordance with the applicable legal procedure, the RS Law on Defence (RS Official Gazette 21/96, 46/01 and 33/04), RS Law on Army (RS Official Gazette 31/96, 46/01 and 33/04), FBiH Law on Defence (FBiH Official Gazette 34/04) and the Law on Service in the FBiH Army (FBiH Official Gazette 34/04) shall cease to apply.*
- (2) Other state and entity laws and by-laws that regulate issues related to defence, shall be harmonized with the provisions of this Law. In case that an entity law or by-law is in contradiction with the provisions of this Law, the provisions of this Law shall prevail, and inconsistent provisions of the entity law or by-law shall be rendered null and void.*
- (3) Entity laws and by-laws shall be harmonized with the provisions of this Law within six months from the entry into force of this Law.*

**Article 82**

*The Council of Ministers of Bosnia and Herzegovina and the governments of the two entities shall continue activities with the aim of bringing the Agreement on Sub-Regional Arms Control and the Agreement on Confidence and Security Building Measures in Bosnia and Herzegovina, as well as all other international*

*agreements, in line with the principles of state command and control authority over the Armed Forces of Bosnia and Herzegovina.*

**Article 83**

*The Parliamentary Assembly, BiH Council of Ministers, the Presidency, and all defence authorities, shall conduct required activities within their respective constitutional and legal competencies, with the aim of the accession of Bosnia and Herzegovina to NATO.*

**Article 84**

*(1) The entry into force of this Law shall put out of force the Law on Defence of Bosnia and Herzegovina (The official Gazette of BiH no. 43/03).*

*(2) This Law shall enter into force eight days after its publication in the "Official Gazette of Bosnia and Herzegovina", and it shall begin to apply on 1 January 2006, unless otherwise prescribed by this Law.*

Article 81 prescribes that entity defence laws, particularly the Law on Defence of Republika Srpska, Law on Army of Republika Srpska, Law on Defence of the Federation of Bosnia and Herzegovina, and the Law on Army Service in the Federation of Bosnia and Herzegovina would cease to apply on 01 January 2006 pursuant to appropriate legal procedures. This means that legislative action to repeal these laws would have to be undertaken in the entities. This is explained in greater detail in Section 4.4 of this report.

All other state and entity laws and by-laws would have to be harmonised with the provisions of this Law. This article prescribes the primacy of this Law if an entity law or by-law is in contradiction with the provisions of this Law. Likewise, this article prescribes the obligation that all entity laws and by-laws would be harmonised with the provisions of this Law within a period of six months from the entry into force of this Law.

Article 82 prescribes that the Council of Ministers of Bosnia and Herzegovina and entity governments should endeavour to bring international agreements in line with the principles of state command and control over the Armed Forces of Bosnia and Herzegovina. This article has remained unchanged from the 2003 Law on Defence.

Article 83 stipulates that state-level political and defence institutions would conduct activities within their competencies with the aim of the accession of Bosnia and Herzegovina to NATO. This article has remained unchanged from the 2003 Law on Defence, and is consistent with the security and defence poli-

cies of Bosnia and Herzegovina and the declaration of the Presidency of Bosnia and Herzegovina from February this year.

Article 84 is a standard legal provision of all state-level legislation and remains unchanged from the 2003 Law on Defence.



## **4.3. Law on Service in the Armed Forces of Bosnia and Herzegovina**

### **4.3.1. Introduction**

The 2003 Defence Law of Bosnia and Herzegovina prescribed the requirement to develop a plan for the establishment of a common personnel system. In accordance with Article 82, the Joint Personnel Commission was formed in June 2004 with the task to examine the issue of personnel management and to provide recommendations for the creation of a common personnel system for Bosnia and Herzegovina. After an intensive six-month period, the Commission submitted its findings at the end of that year to the Minister of Defence of Bosnia and Herzegovina.

The Commission's findings comprise three integral elements: an overall personnel management strategy, personnel management guidelines, and personnel management policies. The personnel management strategy formed the bedrock of the recommendations, setting out the overarching framework for the development of a comprehensive personnel management system. From this strategy, the Commission developed a series of guidelines as the basis for the creation of detailed policies intended to provide the building blocks of a common personnel system. These policies were based on the current entity personnel systems and service laws, incorporating, where possible, the best practices of both. Where existing systems were found to be lacking – particular concerning the professionalisation and modernisation of the armed forces – models from the United States, United Kingdom, Ireland, and Slovenia were used as the basis for the development of appropriate systems for Bosnia and Herzegovina.

Prior to the High Representative's decision to extend the mandate of the Defence Reform Commission for 2005, the intention had been to issue the personnel management policies as ministerial directives. The High Representative's decision, however, changed the situation by stipulating the requirement to achieve interoperability and equal service conditions throughout the Armed Forces of Bosnia and Herzegovina, including the completion and implementation of a system of pay, personnel and human resource management. Conse-

quently, the decision was taken to develop the strategy, guidelines, and policies into a state-level law. The proposed Law on Service in the Armed Forces of Bosnia and Herzegovina is the product of this development undertaken by the Defence Reform Commission and its Legal Working Group.

#### **4.3.2. Explanation**

The proposed new Law on Service in the Armed Forces of Bosnia and Herzegovina [henceforth: Law on Service] codifies the recommendations of the Defence Reform Commission. This Law would, if enacted, facilitate state-level command and control over the armed forces. It is an essential accompaniment to the proposed new Defence Law of Bosnia and Herzegovina as it provides for the state to assume the administrative competencies from the entities that relate to personnel. In particular, it allows the Ministry of Defence of Bosnia and Herzegovina to assume responsibility for the development, establishment, and maintenance of procedures and structures appropriate to the management of the armed forces. Furthermore, the Law on Service provides the overarching framework for the development of a common pay, human resource and personnel management system.

The principal objective of the Law is to regulate professional military service, reserve personnel, and the service of civilian personnel in the Armed Forces of Bosnia and Herzegovina. It would define the composition of the armed forces and provide a common framework for the rights, duties, and status of personnel. Moreover, it would standardise personnel classification, evaluations, promotions, and the personnel record as well as career management of military personnel. It would prescribe unified ranks and insignia in the armed forces, and provide uniform standards of conduct for personnel in service in the Armed Forces of Bosnia and Herzegovina.

The Law on Service is an essential legislative component of the defence system. It provides a vital bridge between individual service personnel and the state. Just as the armed forces, *vice* the state, require certain professional standards and codes of conduct, individual service personnel have the right to expect support of their requirements and aspirations. In this regard, the Law on Service

regulates the obligations between the soldier and the state and *vice versa*. The Law on Service embodies the importance of *people* in delivering operational capability; it recognises and embodies the significance of people as a resource. Without well-trained, well-motivated, and well-led personnel, the armed forces cannot operate effectively. Consequently, not only is this Law a major keystone of the process of professionalising the armed forces, but is also a major element in achieving harmonisation and interoperability among the Armed Forces of Bosnia and Herzegovina as a single military force. As the Defence Reform Commission has strived to ensure that all of its recommendations conform with NATO standards, the Law on Service acknowledges the need for the armed forces to develop the ability, and interoperability, to work alongside a wide variety of NATO countries and partner states in order for Bosnia and Herzegovina to meet its goals of membership in the Partnership for Peace programme and eventually NATO itself. Accordingly, the Law on Service is an integral part of achieving a single military force.

The Law on Service would allow the Armed Forces of Bosnia and Herzegovina to employ all personnel within all branches and services based upon rank and speciality, which would contribute to the overall sustainability and affordability of the defence system of Bosnia and Herzegovina. The armed forces need to have a structure of manpower, with an appropriate distribution of ranks, as well as representation of professions and experts that would deliver efficiency and contribute to sustainability. The inflow and outflow of manpower must be managed correctly to ensure that the manpower structure is both sustainable and balanced. This entails harmonising the status of manpower in consideration of the total numbers of officers, non-commissioned officers, and soldiers in different branches and services, and in accordance with NATO standards. Likewise, this calls for the establishment of common promotion standards that would not allow artificial distortions of the rank structure, taking into account structural requirements. Consequently, in this regard, the Law on Service would facilitate the maintenance and sustainability of the Armed Forces of Bosnia and Herzegovina.

The Law on Service provides a framework for the major elements of personnel management. The Law provides the foundation for a progressive system of career management, including comprehensive procedures for development and promotion, as well as the evaluation of military personnel. Complementing this is a comprehensive set of provisions relating to standards of conduct and the regulation of service. Lastly, as a major component of the harmonisation of the existing elements of the armed forces, the Law envisages a unified system of decorations, commendations, and awards, as well as uniform ranks and insignia of the Armed Forces of Bosnia and Herzegovina.

### **4.3.3. Section-by-Section Analysis**

The following section of this report provides an analysis of the Law on Service. The chosen method of analysis has been to provide an explanation of each section, or chapter, of the Law as opposed to an article-by-article analysis. This method has been chosen, in contrast to the previous chapter of this report with commentary on the Law on Defence, because many of these provisions are an amalgamation of existing provisions and concepts within the current entity laws on service and require minimal explanation. New policies and concepts, especially those that would facilitate the professionalisation and modernisation of the Armed Forces of Bosnia and Herzegovina, are addressed in the following commentary. The full text of the Law follows in the next section of this report.

#### *I – Basic Provisions*

This section provides basic definitions, prescribes the composition of the Armed Forces of Bosnia and Herzegovina, and stipulates the categories of personnel in service in the armed forces. It prescribes the structure of the armed forces within components, branches, services, and regiments. In particular, this section prescribes the composition and functions of regiments and regimental headquarters. Accordingly, the regiments are responsible for the fostering of identity and military heritage of the units and peoples from which they are descended. This section prescribes that the regiments have no operational or administrative authorities, but may have small, non-operational headquarters under the command of the nearest brigade commander. Regimental headquarters

would be responsible for the maintenance of the heritage and culture of the regiment. Each regiment would be entitled to appoint an honorary colonel to serve as head of the regiment. Regimental representation in ceremonies and parades would be approved by the chain of command in accordance with the established Book of Rules on Ceremonies. The minister of defence would have the responsibility to issue regulations further defining the organisation and responsibilities of regiments, including the appointment of regimental colonels and headquarters staff. The regimental system and its application in the Armed Forces of Bosnia and Herzegovina is explained in further detail in Section 3.1 of this report.

## *II – Accession to Professional Military Service*

This section prescribes conditions for the initial recruitment of an individual into the Armed Forces of Bosnia and Herzegovina as a professional officer, non-commissioned officer, soldier, or reservist. It stipulates service entrance requirements as well as the methods and routes of accession for officers, non-commissioned officers, and soldiers. It also lays forth educational prerequisites for all persons recruited into the specific categories of the armed forces.

These provisions prescribe minimum standards that must be met for accession into the armed forces. The basic criterion is the possession of citizenship of Bosnia and Herzegovina; entity laws on service had previously linked accession to the territory of an entity and this has now been removed. Individuals are expected to achieve satisfactory standards of physical fitness for accession into professional service and these provisions set out the requirement that each prospective professional individual must undergo a medical examination to determine their fitness and health. Furthermore, these provisions stipulate that professional military personnel are required to be free of criminal convictions and possess the requisite qualities that exemplify the highest standards of military honour and discipline.

All personnel would accede to the armed forces exclusively by contract. This is a major step towards the professionalisation of the armed forces and departs from

the current system of accession conducted in the entities whereby a person accedes to the armed forces following the completion of their conscription service.

Vacancy notices would be issued for the respective regiment, branch or service of the armed forces, specifying the exact vacancy unit and location. Candidates can apply for a preferred regiment, location, and unit and their preference shall be honoured if the suitable position in their preferred regiment and/or service is vacant. If there is no suitable position in the regiment and/or service of choice, the candidate shall be given the option of accepting another position within the armed forces. If the candidate refuses an alternative position, they will be released from service without further obligations. No candidate would be obliged to join a regiment and/or service against their wishes.

The primary method for accession of officers is through completion of Military Academy or the acquisition of a university degree followed by basic officer training. Officers are accessed into the armed forces at the initial officer rank, which is the rank of lieutenant. These provisions would also allow commanders to identify and recommend outstanding soldiers and non-commissioned officers that possess extraordinary leadership skills and have the potential for commissioned rank.

The basic manner in which a non-commissioned officer may accede into the armed forces is on completion of studies at a military or civilian school. Alternatively, commanders may also identify and recommend outstanding soldiers that possess extraordinary leadership skills and have the potential for non-commission.

The principal objective of these provisions is to establish uniform standards for the accession process of professional officers, non-commissioned officers, and soldiers into the Armed Forces of Bosnia and Herzegovina in support of a common personnel management system. Moreover, the purpose of the prescribed accessions programme is to acquire the very best available personnel from the pool of manpower available in the country; the provisions related to minimum standards of medical fitness, minimum educational standards, and age limits would facilitate the professionalisation of the armed forces.

The adequacy of the accessions programme is of crucial importance to the capacity and capability of the Armed Forces of Bosnia and Herzegovina as a whole. From the perspective of personnel management, success in meeting recruitment targets is fundamental in achieving a balanced manpower structure and to the effective capacity and delivery of the defence system of Bosnia and Herzegovina.

### *III – Rights, Duties and Responsibilities of Personnel in Service in the Armed Forces of Bosnia and Herzegovina*

This section provides the rights, duties and responsibilities of military and civilian personnel in service in the Armed Forces of Bosnia and Herzegovina. These provisions prescribe the obligations that service would entail. They provide a basic framework for the conduct of duties and the foundation for use of force and weapons, to be supplemented by regulations issued by the Minister of Defence of Bosnia and Herzegovina. Not only does this section provide for the duties of personnel to the following of orders, but it also stipulates that all commanders have a duty to comply with the law. Furthermore, it prescribes the duty that soldiers are not exempt from the law when directed to execute an order that would contravene international or domestic criminal provisions.

These provisions establish standards that respect and value every individual, irrespective of their gender, marital status, race, ethnic origin, or religious belief. This is part of the legal obligations that the armed forces must fulfil as an employer. These provisions prescribe equality and equal opportunity for all personnel. Equality of opportunity is an essential factor in sustaining and delivering the potential of personnel, and is, therefore, directly linked to the operational effectiveness of the armed forces as a whole.

Equality of opportunity and the ethos and environment of that opportunity are an essential component of professionalisation. These provisions would foster an environment that attracts high quality personnel and maximises the potential and team work of all personnel serving in the armed forces. Furthermore, as one of the largest employers in the public sector in Bosnia and Herzegovina, the armed forces also have a duty to set the very highest standards in the management and employment of a diverse workforce.

The provisions of this section pertaining to equal opportunities and freedom of religion comply with international human rights provisions. In particular, the satisfaction of religious needs is laid forth in Article 9 of the European Convention on Human Rights and Fundamental Freedoms. These provisions would ensure that the defence structure of Bosnia and Herzegovina can provide an environment in which no individuals or group are limited in contributing their maximum potential to operational readiness. Furthermore, such provisions would help to ensure that the Armed Forces of Bosnia and Herzegovina are acknowledged as a modern, caring employer free from discrimination, harassment, and intimidation. As such, these provisions are an essential element in the process of the harmonisation, unification, and interoperability of the Armed Forces of Bosnia and Herzegovina.

#### *IV – Health Care and Other Rights of Military Personnel*

This section has largely been adopted from current provisions of entity laws and prescribes the rights of service personnel to health care as well entitlements relating to injury through service or compensation in the event of death. These articles also provide for health care and other rights for the spouses and family members of individual service personnel. They are representative of the unique character of service and the need to go beyond provisions that are available to any other general employee: primarily as the potential dangers of service must be offset by the provision of care commensurate with those potential dangers.

Although these provisions are largely formulaic, they are nevertheless an essential component of the contract between the soldier and the state. Provisions such as these are commonplace among the countries and strike at core values in both a direct and indirect sense that are essential in functioning and professional armed forces.

In a direct sense, these provisions focus on force readiness as a key aspect of the armed forces; as the maintenance of a medically ready and fit force is a major component of operational readiness and success. Moreover, adequate health care provision as a restorative and preventative factor greatly adds to force fitness and capability. Such provisions for health care ultimately enhance produc-

tivity and efficiency and help to ensure the delivery of a fit, healthy, and protected armed force. Additionally, they facilitate the retention and development of individual service members.

In an indirect sense, these provisions would add to the morale and collective character of the armed forces - particularly to a sense of togetherness and family that is present in many established armed forces, such as those of future NATO allies. Not only are they essential contributing factors to unity and loyalty, but they also contribute to the overall environment and ethos of the professionalisation and modernisation process.

#### *V – Pension and Disability Insurance of Military Personnel*

This section regulates the pension and insurance rights of military personnel in service in the armed forces. It provides requirements for the eligibility for retirement and the quantity of years in service required for the receipt of insurance. It also prescribes the manner in which individual service personnel's pensions shall be calculated.

The transfer of approximately 12,000 military personnel from their current employment by the entities to state-level employment requires the establishment of harmonised regulations defining conditions for the retirement and pension provisions of professional military personnel. Pension insurance currently falls solely within the competency of the entities and the current pension provisions in the entities mean that soldiers do not receive the same benefits.

The Defence Reform Commission considered two issues: first, as there is no state-level pension fund, to provide for the pension rights for personnel in service at state level; second, a system that would reward the difficult conditions that service personnel would have to endure and bridge the gap between the qualifying years of service needed for a pension and the age of retirement for military personnel. The model contained in these provisions is based upon the current system provided for state-level police officers. As military personnel must retire at different ages – for example officers at fifty-five years of age – and the age of retirement in law is sixty-five, this section proposes that one year of

service in the military is equivalent to a longer period for the purposes of pension calculations.

These articles would ensure that all members of the Armed Forces of Bosnia and Herzegovina will receive pension benefits commensurate with the demands of service in the armed forces.

#### *VI – Working Hours and Annual Leave*

This section has been largely adopted from provisions contained in entity laws and prescribes the general rules for working hours and entitlements to annual leave and leave of absence, including the usage of those entitlements. It provides for circumstances when longer hours can be ordered by commanders, such as when individual service personnel are on operational or special duties. It stipulates basic annual leave and absence benefits, including provision for the maintenance of individual service personnel rights for religious and cultural needs. It further stipulates the right for maternity leave in accordance with the applicable, prevailing civilian legislation, and allows for special circumstances in which a person in service can take leave of absence. Furthermore, these provisions conform to articles contained in the section on 'Rights, Duties and Responsibilities of Personnel in Service in the Armed Forces of Bosnia and Herzegovina,' particularly, within the intent of complying with European human rights laws and conventions relating to the satisfaction and observation of religious and cultural rights.

The intent of this section is to establish a leave programme to allow members of the Armed Forces of Bosnia and Herzegovina to use their authorised leave to the maximum extent possible. Leave is an important element of the common personnel system and it makes a positive contribution to individual service personnel morale, level of performance, and career motivation. Consequently, it is also an essential factor for force readiness and capability. Moreover, as much as these articles provide for the right of individuals to leave, they also provide that leave must be planned in order to ensure that it is not misused and does not constrain tasks or affect other personnel or the functionality of the armed forces.

## *VII – Salaries, Allowances and Other Benefits*

This section lays forth regulations concerning the pay and entitlements of military personnel in service at home and abroad, and prescribes the general framework for the calculation and payment of salaries, supplements, and benefits. The processes are largely taken from the current provisions of entity laws, but the most fundamental aspect that they introduce is unified pay.

This section provides for the career circumstances that service personnel would encounter, which is particularly important given the demands of service in the armed forces. Service in the armed forces would often mean separation from family and the place of permanent residence, as well as service abroad – conducting duties such as peace support operations, diplomatic assignment, or for education or training. Furthermore, these provisions acknowledge the complexities, responsibilities, and hazards of service and provide appropriate compensation for the circumstances that arise as a result of service in the armed forces.

These provisions are an essential element of the common personnel system. Currently, there are two different pay and allowance systems within the entity defence structures. Each of these systems is financed by a separate budget that is approved in the entity parliaments. These provisions provide the foundation of a common, harmonised system of pay and allowances for all members of the Armed Forces of Bosnia and Herzegovina and are a major step toward unifying the armed forces. Moreover, with the establishment of a single account and single defence budget, this would be an essential part of establishing state financial control over the pay and personnel element of the armed forces.

The pay and allowance system of the Armed Forces of Bosnia and Herzegovina has to be comparable with the pay and allowance in the state sector. The pay system must also be sufficiently generous to retain individuals, and should also be suitably motivating to ensure individuals achieve and strive for promotion. A pay system that is commensurate with the complexities of work being performed, responsibilities, and rank is an essential component of the professionalisation of the Armed Forces of Bosnia and Herzegovina.

### *VIII – Standards of Conduct*

This section establishes the foundation for standards of conduct required for all ministry of defence and military personnel regardless of assignment or rank. These provisions would be supplemented by regulations and a detailed code of conduct to be issued by the Minister of Defence, and the observance of the code of conduct would be overseen by the Office of the Inspector General.

This section contains detailed provisions relating to the standards of conduct, duty to uphold the law, and prohibitions on actions and behaviour, as well as conflicts of interest. It would regulate the individual conduct of all personnel and defines the minimum standards of conduct required of them. These standards are designed to enable personnel to avoid conflicts of interest and the perception of conflicts of interest between their private interests and their official duties. It upholds the principle that all military personnel are subject to the civil laws of Bosnia and Herzegovina and have a duty to maintain them.

These provisions prescribe the duty of every member of the armed forces to strive to achieve and maintain the highest professional and personnel standards, thereby enhancing both the competence and cohesion of the armed forces. They stipulate the obligation of service personnel to avoid any activity that risks degrading their professional ability, and any personal behaviour that may damage morale and the reputation of the armed forces by putting at risk the trust and respect that must exist between individuals who depend on each other.

All personnel in the armed forces have the duty to arrange their personal affairs and to conduct themselves in such a way as to avoid the existence or the perceived appearance of any conflict between their public duties and their private interests, whether financial or political. This duty applies to all personnel regardless of their position. Likewise, all personnel are prohibited from using their official position to induce, coerce, or influence any person in order to receive a personal benefit for themselves or others.

Personnel are duty bound to avoid situations of conflicts of interests arising when their own personal, professional, or financial interests clash with their of-

ficial responsibilities, creating the potential for the employee to disregard or neglect their duty to their service. Therefore, these provisions prescribe that personnel are not permitted to hold financial interests that conflict with the conscientious performance of their duty – including engagement in outside employment or other activities, such as membership of non-governmental associations or organisations, that conflict with official government duties and responsibilities. Likewise, these provisions regulate the receipt of gratuities, gifts and honoraria in order to avoid circumstances where the receipt of such may affect the objective judgment of an employee and may impair public confidence in the integrity of the government and armed forces.

The main rationale behind these provisions is that work in the armed forces requires military and civilians alike to act with integrity and abide by a set of values and ethics clearly above those expected within the civilian sector. This is because the armed forces exist to defend Bosnia and Herzegovina and its interests, and may exercise lethal force on its behalf under the authority vested in the chain of command. These unique circumstances require a conduct and disciplinary framework that applies to all personnel and the armed forces must take a special approach towards certain types of behaviour and relationships, which might, in most other employments, be regarded purely as a matter of individual choice or morality. Within the close-knit and mutually supporting military community, however, the consequences of a breakdown in trust are potentially so severe that such behaviour has an additional dimension. These provisions are thus an essential part of the process of professionalisation, particularly as they contribute to the overall environment and, more importantly, the ethos of professional standards and behaviour.

### *IX – Personnel Records Management*

This section provides the basis for the establishment of a comprehensive system of personnel records management. It prescribes the responsibility of the minister of defence to establish an effective system of control of individual personnel and personnel performance records in order to ensure that authorized commanding officers have all information needed to fulfil the responsibilities of the armed forces. The Ministry of Defence of Bosnia and Herzegovina would have

the competency to create and maintain primary personnel records for all personnel employed within the armed forces and defence institutions. This competency should include the planning, controlling, directing, organising, training, and promotion of activities involved with respect to the upkeep, maintenance, use, and disposal of records.

These articles establish rules and guidelines for the maintenance and management of personnel records as well as for documents created by units within the armed forces. These provisions apply to all military and civilian personnel in employment within the Armed Forces of Bosnia and Herzegovina and defence institutions.

These provisions allow the ministry of defence and armed forces to create a systematic structure of records that pertain to all aspects of the employment of an individual in service. Such records could include identification and qualification documents, contractual and education documents, performance evaluations, as well as other information relevant to employment within the defence system. These articles also allow for the creation of a system of auxiliary records for employees for the purpose of personnel management requirements and professional development; these records would include those that support decisions by authorized persons and bodies concerning the schooling, training, promotion, and recommendations for new assignments of military personnel.

These provisions are crucial to the requirement to establish a common pay, personnel and human resource management system. They would greatly enhance harmonisation within the armed forces and facilitate the management of service conditions to achieve equality. Furthermore, the development of such a system would provide the opportunity to modernise the current method of records management, and is a major component of the process of modernisation of the Armed Forces of Bosnia and Herzegovina.

#### *X – Military Personnel Classification System*

This section provides for the establishment and creation of common classification and reclassification procedures for managing the careers of officers, non-commissioned officers, and soldiers of the Armed Forces of Bosnia and Herze-

govina. The classification system would apply to all members of the armed forces and reservists. This system is a major component of the process of modernisation and is a vital part of the professionalisation and development of the Armed Forces of Bosnia and Herzegovina.

These provisions also establish the need to maintain personnel accounting and unit strength records in order to keep the chain of command informed of the unit's overall strength. The establishment of a personnel accounting and strength reporting system ensures that military leaders in the armed forces have sufficient information pertaining to the strength and numbers of personnel; this information is a crucial component of the execution of administration measures and decision-making, and is an important element of an effective personnel management system. It is essential that each unit provide accurate information regarding the status of each individual in service within their unit. This information would serve as a basis for adequate filling of vacancies in accordance with the approved structure. As such it is an essential element to ensure force readiness and strength.

The overall objective of these provisions is to create a system to allow for the effective management of personnel to accomplish successfully the missions of the Armed Forces of Bosnia and Herzegovina. The personnel classification system is a vital component of personnel management and is used to identify and match individual capabilities, limitations, and aptitudes with the requirements of specific positions.

The overall system is designed to manage military personnel for their effective utilisation. It is a key tool to match individuals with positions in line with their capabilities and qualifications, and as such it is vital in fulfilling the needs of the armed forces. The occupational speciality of an individual is determined by the needs of the armed forces, their education, training, and experience, their individual preferences, and their capabilities and other qualifications. Once established, it would also provide all individuals in service with a vision of their professional opportunities and help them attain their career objectives. These provisions are an essential part of the professionalisation and modernisation proc-

ess and would help to achieve an armed force that is capable of fulfilling the missions and tasks expected of it.

### *XI – Career Management System*

This section provides for the establishment of a career management system that would allow for the management of an individual from their entry into service until their retirement or separation. This system applies to all professional military members in the armed forces and defence institutions. This is a new concept and a major component of the professionalisation and modernisation process.

These provisions would ensure that the service contracts of military personnel be extended according to the needs of the individual and the requirements of the armed forces. These articles provide regulations pertaining to the amount of time spent in service for professional military personnel and reservists, and they establish procedures for the extension of contracts for professional military personnel, including the responsibilities of contract extension committees, their composition, and procedures governing their work.

Contract extension committees are an important part of the career management system and process. Although field commanders are best placed to report upon individuals directly under their command, they are not able to compare the performance of their immediate subordinates against the performance of subordinates under another commander. That function should be carried out by neutral selection commissions, ensuring that the extension process is decided with impartiality and objectivity to retain the best people; this is of fundamental importance and is a major step to develop professional armed force personnel.

The provision that commissions convene on the decision of the Minister of Defence of Bosnia and Herzegovina and shall be single and central is paramount to an efficient system and would help to avoid the creation of parallel systems.

A comprehensive career management system is a vital component of the common personnel system. The successful manning of the armed forces relies on the effective control of the structure of personnel. The management of an individ-

ual's career is necessary to ensure that service personnel develop their full potential in rank and capability, and ensures that the appropriate people are in the proper positions so that the organisation as a whole is best served.

Furthermore, the primary process of career management is the development of individual commissioned and non-commissioned officer's and soldier's full potential. The system would allow that the needs of the individual are fulfilled in order for him or her to achieve their aspirations and to stay motivated. Balancing the needs of the armed forces with the needs of an individual's career is an integral part of ensuring that the armed forces are operationally capable. Consequently, this is an essential part of the process of professionalisation and facilitates the development of the armed forces as a whole as personnel are assigned to positions based upon their experience, performance, and suitability.

### *XII – Promotion*

This section regulates the promotion of all military personnel and reservists of the armed forces up to the rank of colonel, regardless of their assignment, and would create a unified system of advancement and promotion for the Armed Forces of Bosnia and Herzegovina. The promotion of general officers is regulated according to the Defence Law of Bosnia and Herzegovina and is part of the competency of the Presidency of Bosnia and Herzegovina. Promotion upon merit is an essential part of ensuring operationally fit and ready armed forces and ensures that the armed forces develop according to the needs of the state and to fulfil the missions and tasks as set forth in defence and security policy. A meritorious promotion system is also a valid contributing component to unit and individual morale and conduct, and is thus central to unit cohesion and functioning.

These provisions prescribe procedures for the promotion of soldiers, officers, non-commissioned officers, and reservists. These articles provide for the establishment of promotion commissions, including their composition and procedures governing their work. They stipulate the minimum time periods for promotion eligibility and the required conditions for consideration for promotion. In addition, these provisions grant the capacity for temporary promotions ac-

ording to the requirements of service in special assignments, upon proposal of the minister of defence and with the approval of the Presidency of Bosnia and Herzegovina.

The provision that commissions convene on the decision of the minister of defence and that they shall be single and central is paramount to an efficient system and would help to avoid the creation of parallel systems.

A common promotions system is an essential element of the process of professionalisation and of the personnel management system. The system must underpin the career development of individuals and standardise opportunities for advancement for deserving service members. The overall objectives of the common promotions system are to fill authorised positions with qualified personnel, to provide for career progression and rank that is in line with the potential of individuals, and to reward the best qualified individuals. These provisions would help to ensure that the system is entirely fair and transparent and is administered in an honest and equitable manner to all personnel to ensure that only deserving military personnel are promoted based on past performance and future potential to serve in positions of greater responsibility.

### *XIII – Evaluation*

This section provides for the establishment of a unified performance evaluation system to support the common personnel management system, and applies to all military professional members of the Armed Forces of Bosnia and Herzegovina.

These articles prescribe detailed rules, principles, and procedures for administering the process of evaluation, as well as procedures following the results of evaluation, including provision for appeals and complaints against the received results.

The process of evaluation is an essential part of the personnel management system and career development of individuals. The evaluation process influences career objectives, measures the quality of the armed forces, and largely governs the determination of the senior leadership of both the non-commissioned officer

corps and officer corps. The evaluation reports, the needs of the armed forces, and the individual's qualifications can then be used together as the basis for personnel actions, such as promotion, selection for education and training, assignment, and qualitative management. These provisions would ensure that the system is administered in an equitable manner to all personnel. Such a system is a key component to the achievement of a professional armed force, and is a crucial element in the maintenance of morale and high standards of conduct.

Additionally, a comprehensive evaluation system is a valuable tool of quality control and helps to ensure that the armed forces are at the required standard to fulfil its missions and tasks.

#### *XIV – Decorations, Awards and Commendations*

This section establishes procedures for the issuance of decorations, awards, and commendations to personnel in service in the armed forces, and citizens and other legal persons for their contribution to the Armed Forces of Bosnia and Herzegovina.

These articles stipulate that decorations shall be determined by a separate law, and awards and other commendations shall be defined by regulations to be issued by the Minister of Defence of Bosnia and Herzegovina.

#### *XV – Service Status*

This section establishes procedures by which officers, non-commissioned officers, and soldiers may be appointed to a duty assignment to meet the needs of the Armed Forces of Bosnia and Herzegovina, and applies to all professional military members and reservists. It also establishes the capacity to change the branch or service of a professional non-commissioned officer or officer, either upon their request or based upon service or armed force requirements. Decisions on the change of branch or service shall be issued by the Minister of Defence of Bosnia and Herzegovina. Such provisions are a necessary as the mobility of labour within the armed forces is an important part of a personnel system and allows the commanders and ministry of defence to balance manpower resources against the needs of the armed forces.

This section also provides for situations when military personnel would be selected for educational or professional development, and prescribes regulations governing leave in cases of illness, redundancy, and suspension from duty or service.

The provisions concerning professional military education and individual training are of key importance as they are crucial factors in the future development of the Armed Forces of Bosnia and Herzegovina. Professional military education and individual training are central parts of the common personnel system as there is an unbreakable link between education, promotion, assignment, retention, pay, separation and retraining for entry into civilian life. Established armed forces understand this concept and hold it as a central tenet of personnel management. The principal reason behind this is that qualified personnel, and in particular leaders, are very important to sustaining a professional armed force. Maximising the opportunities for training is an important part of the process of professionalisation, while development of the capacity and capabilities of individuals in service add to the overall capacity of the armed forces.

This section also provides the capacity for the ministry of defence to grant scholarships to students in order to fill military posts or for cadets to enrol in military education institutions. It details the obligations of cadets, professional military personnel and military scholarship holders after their graduation, and the period of service they are obliged to serve in the armed forces.

#### *XVI – Ranks and Insignia of the Armed Forces of Bosnia and Herzegovina*

This section establishes a standardised rank, rank insignia, and insignia for the Armed Forces of Bosnia and Herzegovina and applies to all active and reserve members of the armed forces and defence institutions. Grades of rank for general officers, officers, non-commissioned officers, and enlisted servicemen and women are defined, as well as rank insignia and insignia for general officers, officers, and non-commissioned officers. These provisions also stipulate the requirement that all Armed Forces of Bosnia and Herzegovina field uniforms be the same or similar material with the same camouflage pattern. These articles would ensure that members of the armed forces are united under the same sys-

tem of rank, insignia, and uniform, ensuring the fulfilment of an important element of a single military force and achieving harmonisation within the Armed Forces of Bosnia and Herzegovina.

### *XVII – Disciplinary Responsibility*

This section regulates the issue of military discipline and disciplinary responsibility. It defines major and minor violations as faults and offences, as well as sanctions and the selection of the type and measures of disciplinary sanctions and punishments. It provides basic provisions concerning disciplinary proceedings and defines the responsibilities and procedures of competent superiors to discuss faults and disciplinary committees that would discuss and decide on disciplinary offences.

These provisions would provide the chain of command the authority to implement and enforce the plans and decisions of commanders and the armed forces as a whole. Discipline is fundamental to the functioning of the armed forces as it is central to the cohesion of the armed forces as a unit and is essential for the proper functioning of the chain of command throughout the military. Provision for military discipline is an integral element of functioning and operationally fit armed forces; it is the cornerstone of a professional armed force. Few professions are as dependent on discipline as the military. The nature of the armed forces as a collection of individuals who must set aside their personal interests, concerns, and fears to pursue the purpose of the group collectively demands a strict regime that can marshal individual wills and talents in a single direction. This allows the armed forces to face challenges and adversity to achieve objectives unattainable except through collective and concerted effort. At its most basic level, the sense of cohesion that comes from combining individuals provides unity of purpose. It ensures that the interests of both the armed forces and individuals in service are safeguarded, and needs to be administered in a way that guarantees due process and fairness.

### *XVIII – Termination of Military Service*

This section establishes rules and guidelines for the separation of professional officers, non-commissioned officers, and soldiers from the Armed Forces of

Bosnia and Herzegovina, and applies to all professional military members. It regulates the termination of military service, voluntary and involuntary termination of service, honourable and dishonourable discharge, and termination of reserve obligation. These provisions do not refer to the act of retirement at the end of service. The Ministry of Defence of Bosnia and Herzegovina would be responsible for the produce of guidance and maintaining policy and standards for separating professional military members from the armed forces.

These provisions are based on the premise that a career as a professional officer, non-commissioned officer or soldier is a privilege for those whose performance, conduct, attitude and potential for advancement meet the highest standards. Separation describes the return of an individual from the armed forces to civilian life, in effect, terminating his or her professional military service. A separations policy is designed to retain and reward the highest quality personnel, whilst denying continued service to those who do not meet the exacting standards to the armed forces.

These provisions are a necessary component of the personnel system as there are many reasons why professional members may be terminated involuntarily from the armed forces, which include misconduct, sub-standard performance (qualitative management), lack of vacancies (quantitative management) or unsuitability. Although these reasons are largely formulaic, from a perspective of personnel management, the issues of qualitative and quantitative management are important. Qualitative management separations are based on vacancies at the next higher rank. The armed forces must decide its basis for continued service and the length of contracts and terms of service for its professional personnel. Qualitative personnel management is directly linked to the career management and the needs of the armed forces. Quantitative management separations may occur during periods of downsizing. In these cases, every effort must be made to ensure that the correct personnel, in the right specialty are retained to meet the needs of the armed forces. Therefore, separations may occur in some specialties but not in all. In this case, reductions are generally made based on qualitative measures within individual career fields. Consequently, these con-

cepts are an important part of the process of the professionalisation of the Armed Forces of Bosnia and Herzegovina.

### *XIX – Miscellaneous Provisions*

This section contains various provisions relating to a variety of issues that do not naturally fall within any of the other chapters of the law. Such items include the nature of orders, the requirement to acknowledge the receipt of documents that contain secret information by signature, and other procedures and regulations.

### *XX – Final and Transitional Provisions*

This section contains provisions relating to the transfer of defence functions and personnel from the entities to the state. In essence, this section provides the means to bridge the gap between the old system and the new, and would regulate the method and procedures for the transfer of personnel to the state.

The assumption of defence competencies by the state would mean that entity defence institutions would cease to exist legally, which requires that all personnel currently employed by the entities would need to be transferred to state-level employment. Personnel transferred would retain their rights and obligations acquired in accordance with regulation that were in force until the day of entry into force of this Law; the procedure to conclude new contracts with transferred personnel shall be conducted within one year of the entry into force of this Law.

The transfer of civilian personnel employed in the entities would be regulated by the transitional and final provisions of the Law on Defence of Bosnia and Herzegovina. This section of the Law on Service regulates the transfer of all personnel in service in the entity armies.

The method of transition comprises of an immediate legal transfer of competencies for defence functions, personnel, and other obligations. Once the Law on Defence and Law on Service have been adopted by the BiH Parliamentary Assembly, eight days after their publication in the Official Gazette of Bosnia and Herzegovina, these Laws as a whole enter into force. However, there would be a

period of time after their entry into force and the actual legal transfer of competency for functions, personnel, and other obligations – the particular details relating to these transfers are explained in the previous chapter as part of commentary to the transitional and final provisions of the Law on Defence of Bosnia and Herzegovina. Accordingly, the actual transfer of competencies and personnel would take place on 01 January 2006 – for organisational and budgetary reasons also explained in the previous chapter of this report.

This section specifically regulates the status and rights of the transferred military personnel, the issuance and application of regulations, and a ban on new admissions to service of personnel by the Ministry of Defence of Bosnia and Herzegovina and the entity ministries of defence. The ban on new admissions to service is contained in view of future downsizing requirements and will be in effect until the transfer of competencies and personnel on 01 January 2006, as prescribed in the Law on Defence and explained in the commentary to that Law.

These provisions also establish a process to harmonise the ranks among the Armed Forces of Bosnia and Herzegovina, based on existing rank titles.

#### **4.3.4. Legislative Recommendations**

##### **Law on Service in the Armed Forces of Bosnia and Herzegovina**

#### **CHAPTER I – BASIC PROVISIONS**

##### **Article 1 (Subject of the Law)**

This Law shall regulate service in the Armed Forces of Bosnia and Herzegovina (hereinafter: the Armed Forces), the composition of the Armed Forces and accession to service, the rights and duties of personnel in service in the Armed Forces, the service status of personnel, personnel classification system, evaluations, promotions, personnel records management and career management of military personnel, ranks and insignia in the Armed Forces, standards of conduct and other status issues of personnel in service in the Armed Forces.

##### **Article 2 (The Armed Forces of Bosnia and Herzegovina)**

The Armed Forces means all military forces in Bosnia and Herzegovina as determined in the Law on Defence of Bosnia and Herzegovina (The Official Gazette of Bosnia and Herzegovina, No. /05, hereinafter: the Law on Defence).

**Article 3**  
**(Personnel in Service in the Armed Forces)**

(1) Military personnel, civilian personnel and cadets may be in service in the Armed Forces. Military personnel are professional military personnel and reserve personnel while in service.

(2) Professional military personnel are:

- a) Soldiers,
- b) Non-commissioned officers (hereinafter: NCOs),
- c) Officers,
- d) General officers.

(3) Civilian personnel in service in the Armed Forces are employees to which the provisions of the Law on Labour Relations in the Institutions of Bosnia and Herzegovina shall apply (BiH Official Gazette 26/04).

(4) Reserve Personnel are:

- a) Reserve soldiers,
- b) Reserve NCOs,
- c) Reserve officers,
- d) Reserve general officers.

(5) Reserve personnel on active duty shall have the same rights and obligations as professional military personnel, unless otherwise regulated by this law.

(6) Active duty in reserve service is the time in training, exercise and mission.

(7) Cadets shall have rights and duties that are prescribed by this law and regulations issued by the Minister of Defence.

**Article 4**  
**(Components, Branches and Services)**

The Armed Forces shall consist of components, branches and services:

a) Components are:

- 1) Army,
- 2) Air Force and Air Defence.

b) Branches are:

- 1) Infantry,
- 2) Artillery,
- 3) Artillery Rocket Units of the Air Defence,
- 4) Armour – Mechanised Units,
- 5) Aviation,
- 6) Engineers,
- 7) Signal,
- 8) Nuclear Biological Chemical Defence,
- 9) Electronic Reconnaissance and Counter Electronic Warfare,
- 10) Air Observation Reporting and Surveillance,
- 11) Military Intelligence.

c) Services are:

- 1) Technical Service,
- 2) Air Force Technical Service,
- 3) Military Police Service,
- 4) Traffic Service,
- 5) Quartermaster Service,
- 6) Medical Service,
- 7) Veterinary Service,
- 8) Construction Service,
- 9) Financial Service,
- 10) Legal Service,
- 11) Geodetic Service,
- 12) IT Service,
- 13) Music Service,
- 14) Religious Service.

**Article 5  
(Regiments)**

- 1) Infantry regiments foster identity and military heritage of the units and peoples from which they are descended: ARBiH, HVO, and VRS.
- 2) Regiments and regimental headquarters have no operational or administrative authorities.
- 3) Each regiment shall have a small, non-operational regimental headquarters and staff. Regimental headquarters shall be commanded by an officer of the Armed Forces below the rank of OF-5. Additional regimental headquarters staff shall number no more than 10 for each regiment. Regimental commanders and regimental staff are under the command of the nearest brigade commander.
- 4) Regimental headquarters personnel are members of the Armed Forces and they are assigned to the regimental headquarters in accordance with the personnel management system.
- 5) Regimental headquarters shall be administratively supported by the nearest brigade headquarters.
- 6) Regimental representation in parades, ceremonies, and special events shall be approved by the chain of command in accordance with the Book of Rules on Ceremonies.
- 7) Regimental headquarters may:
  - a) Manage a regimental museum;
  - b) Control a regimental fund, which is raised by voluntary dues of members and non-profit activities and which is regulated by the Ministry of Defence;
  - c) Prepare, research and maintain a regimental history;
  - d) Publish a regimental newsletter;
  - e) Preserve regimental cultural and historical heritage;
  - f) Provide guidance on conduct of special ceremonial events;
  - g) Provide guidance on regimental customs, dress and deportment; and
  - h) Operate Officers', NCOs', and Junior Ranks' messes.
- 8) Regiments may have an active duty, reserve, or retired officer who serves as the "colonel" of the regiment. The regimental colonel is a strictly honorary position and has no operational or administrative authority.

- 9) The Minister of Defence shall issue regulations further defining the organization and responsibilities of regiments, including the process for appointment of regimental colonels and other regimental headquarters staff.
- 10) The Minister of Defence, upon the recommendation and advice of the regimental commander, shall appoint regimental colonels.

**Article 6**  
**(Applicability of the Acts)**

(1) Unless otherwise defined by this Law acts that regulate the status of professional military personnel, reserve personnel, and civilian personnel in service in the Armed Forces shall be administrative acts and shall be regulated in accordance with this Law, the Law on Defence, the BiH Law on Administration ("Official Gazette of BiH", no.32/02), the Law on Civil Service in BiH Institutions ("Official Gazette of BiH", no. 12/02, 8/03, 35/03, 4/04, 17/04, 26/04 and 37/04), the Law on Labour in BiH Institutions ("Official Gazette of BiH", no. 26/04 and 7/05), other applicable laws, directives, regulations, and orders of the Minister of Defence of Bosnia and Herzegovina.

(2) In the process of rendering acts from paragraph (1) of this Article, unless otherwise stipulated by law, regulations which determine administrative procedure shall apply.

(3) An administrative appeal against final administrative acts from paragraph (1) of this Article may be initiated before a competent court, unless otherwise stipulated by this Law.

**Article 7**  
**(Superiors and Subordinates)**

(1) Professional military personnel serving in the Armed Forces, in accordance with their service, may be superior and subordinate personnel. Based on their ranks and duties, they may be senior and junior personnel.

(2) Superior personnel shall be personnel who, pursuant to the law, and other regulations and leading and commanding authority, lead and command military commands, headquarters, units and institutions, as well as their bodies and personnel.

(3) Senior personnel shall be personnel with the higher rank; if two persons have the same rank, the senior shall be the one whose formation post requires a higher rank; in case of two persons with the same formation rank, the senior shall be the one who was promoted earlier.

**CHAPTER II - ACCESSION TO PROFESSIONAL MILITARY SERVICE**

**Article 8**  
**(General Accession Requirements)**

(1) A person who meets the general requirements below may accede to professional military service:

- a) Citizen of Bosnia and Herzegovina,
- b) Medically fit for the service in the Armed Forces,
- c) Has not been sentenced to a term of imprisonment of more than six months,
- d) Has not been dismissed from a civil service or a corporate body for violations of official duty in the last three years,
- e) There is no valid judgment that bans him from carrying out certain activities or duties for the duration of that ban,
- f) The person is not a subject of a criminal prosecution for a crime prosecutable *ex officio*,
- g) Has adequate professional qualifications required for undertaking a specific duty,
- h) Not younger than 18 nor older than 27 at the time of accession unless that upper age limit is waived in accordance with regulations rendered by the Minister of Defence of Bosnia and Herzegovina (hereinafter: the Minister of Defence),
- i) Has completed the mandatory military service or has been otherwise trained for the duties for which he is being admitted.

(2) In addition to the general requirements referred to in paragraph (1) of this Article, the Minister of Defence shall set forth special requirements.

**Article 9**  
**(Vacancy Notices and Announcements)**

(1) Recruitment of persons to professional military service in the Armed Forces shall be conducted on the basis of vacancy notices, i.e. announcements, except for cadets and scholarship holders after graduation.

(2) Accession of persons referred to in Article 11 of this Law into the reserve of the Armed Forces shall be done on the basis of vacancy notices, i.e. announcements.

(3) Vacancy notices for the Armed Forces shall be issued for the respective regiment, branch or service, and the specific unit and location of the vacancy shall be indicated.

(4) In the vacancy procedure, candidates shall apply for the preferred regiment, location, and units. After the completion of the basic military training, the candidate's preferences shall be met if the suitable position in his preferred regiment or service is vacant. If there is no suitable position in his regiment and/or service of choice, the candidate shall be given the option of accepting another position within the Armed Forces. If the candidate refuses an alternative position, he shall be released from service without any further obligations. No candidate who completes the basic military training shall be requested to join a regiment and/or service against his will.

(5) A person may be accessed into professional military service without a vacancy notice or announcement if he is required to perform certain tasks and duties of special importance for defence.

(6) Tasks and duties from paragraph (5) of this Article shall be determined by the Minister of Defence.

**Article 10**  
**(Contracts for Professional Military Personnel)**

(1) A citizen of Bosnia and Herzegovina who meets requirements defined in Article 8 of this Law may be recruited to professional military service for specific duties and a specific period of time.

(2) Accession into military service shall be conducted on the basis of contract, and time in service shall be calculated as of the day on which a person assumes his duties.

(3) Persons referred to in paragraph (1) of this Article shall accede to professional military service on the basis of contract that shall specify the following: rank, military occupational specialty, regiment, salary, duty, duration of service, mandatory reserve obligation as defined in Article 100 of this Law, and other rights and obligations during the military service.

(5) Professional military service contracts shall be of definite duration, the period of which shall be regulated by the contract. The Minister of Defence shall sign each contract on behalf of the Ministry of Defence.

**Article 11**  
**(Contracts for Specialist Reserve Personnel)**

(1) Reserve personnel without previous military experience, but with special professional skills, may be recruited into the reserves.

(2) Persons referred to in paragraph (1) of this Article who meet the accession requirements from Article 8 of this Law shall accede to the reserves on the basis of a contract.

**Article 12**  
**(Educational Qualifications)**

(1) In accordance with Article 8 paragraph (1) item g) of this Law, the following educational qualifications shall be required:

- a) Soldiers – level III high school degree obtained in Bosnia and Herzegovina,
- b) Non-commissioned Officers –level IV high school degree up to level VI college degree obtained in Bosnia and Herzegovina,
- c) Officers –level VII university degree obtained in Bosnia and Herzegovina.

(2) For the purpose of items (a), (b) and (c), paragraph (1) of this Article, an authorised body shall render regulations defining foreign-degree validation and equivalent degrees obtained outside Bosnia and Herzegovina.

**Article 13**  
**(Methods and Routes of Accession)**

- (1) A soldier shall be accessed into the Armed Forces in the rank of Private.
- (2) An NCO shall be accessed into the Armed Forces at the initial NCO rank upon completion of a military or civilian school. Exceptionally, an NCO may be accessed at the recommendation of his commander, based on his performance as soldier and if he meets the requirements referred to in Article 12, paragraph (1), Item b) of this Law.
- (3) An officer is accessed into the Armed Forces at the initial officer rank after graduating from a Military Academy or after obtaining a degree in accordance with Article 12 paragraph (1) item (c) of this Law followed by the completion of the Basic Officer Training. Exceptionally, an officer may be accessed at the recommendation of his commander based on his performance as soldier or NCO, provided that he has completed the basic officer training and meets the requirements referred to in Article 12, paragraph (1), Item c) of this Law.

**CHAPTER III - RIGHTS, DUTIES AND RESPONSIBILITIES OF PERSONNEL IN SERVICE IN THE ARMED FORCES**

**Article 14**  
**(Duties)**

- (1) Professional military personnel in the Armed Forces shall have the rights and duties to:
- a) Preserve the sovereignty and territorial integrity of Bosnia and Herzegovina in accordance with the Constitution of Bosnia and Herzegovina and International Law,
  - b) Abide by the Defence Law, the directives, regulations, and orders of the Minister of Defence, and the Security policy and Defence policy of Bosnia and Herzegovina,
  - c) Abide by the regulations applicable to the Armed Forces and rules of service in the Armed Forces, and by other rules and regulations applicable to the Armed Forces which strengthen military discipline,
  - d) Establish proper interpersonal relations in military units and military institutions and propagate humane ethical principles,
  - e) Foster and strengthen patriotism,
  - f) Advance in their own professional development and render assistance to other Armed Forces members in their professional development,
  - g) Safeguard weapons and other material resources committed to their care in service,
  - h) Professionally and irreproachably perform duties and execute orders,
  - i) Influence other Armed Forces members, by setting a good personal example of discipline, bravery, and self-sacrifice,
  - j) Demonstrate initiative and creativity in the execution of their duties,
  - k) Possess and carry a military identification card, which shall prove their membership to the Armed Forces, and
  - l) Abide by and respect all codes of conduct both on duty and off duty.

**Article 15**  
**(Training Obligation of Reserve Personnel)**

- (1) Reserve personnel shall have the obligation to complete scheduled training.
- (2) Reserve personnel shall not be called to training within 12 months from the end of their professional military service.
- (3) The Minister of Defence shall issue regulations governing the frequency, duration, and contents of the training obligation of reserve personnel.

**Article 16**  
**(Duty to Obey Orders)**

- (1) Military personnel shall be obliged to execute orders of their superiors, which are related to the service, with the exception of those orders, which contain elements of a criminal offence.
- (2) When they receive an order with elements of a criminal offence, military personnel shall be obliged to immediately inform the superior officer of the superior who issued the order.

**Article 17**  
**(Right to Carry and Use Weapons)**

- (1) Military personnel shall have the right to carry and use firearms, pursuant to the rules of the service.
- (2) The rules of service in the Armed Forces shall be issued by the Minister of Defence and they shall regulate the procedure and conditions under which military personnel may use firearms in the execution of their duties.
- (3) While executing combat tasks, military personnel shall use weapons in accordance with the rules of engagement to be rendered by the Minister of Defence.

**Article 18**  
**(Regulations on Use of Force)**

Authorised military personnel serving in military security forces or military police shall use firearms and other means of force in accordance with the regulations on the use of such instruments in service of the Armed Forces, which shall be rendered by the Minister of Defence.

**Article 19**  
**(Wearing the Uniform)**

Military personnel shall be required to wear the prescribed uniform during the execution of service duties in accordance with the regulation rendered by the Minister of Defence.

**Article 20**  
**(Right to File Complaints)**

- (1) A military person shall have the right to file complaints and reports to his superior concerning all work-related issues and the functioning of the military unit or institution in which he is serving.
- (2) A military person who files a complaint against his superior commander shall not be relieved of the obligation to execute the order received, with the exception stipulated in paragraph (1) of Article 16 of this Law.
- (3) Written requests, objections, complaints, appeals and other actions in administrative procedure related to service in the Armed Forces shall be exempt from payment of the administrative fees.

**Article 21**  
**(Removal in Time of War or Emergency)**

During a state of war or emergency, and measures of increased combat readiness and alert of the Armed Forces, a military person may be removed from the military unit or institution or the place of service only with the approval of a brigade commander, his equal or superior commanding officer.

**Article 22**  
**(Travel Abroad During State of War or Emergency)**

In a state of war or state of emergency, a professional military person may travel abroad only with the approval of the Minister of Defence.

**Article 23**  
**(Military Identity Cards)**

- (1) Military personnel shall be issued a military identity card to prove membership in the Armed Forces.
- (2) In addition to the identity card referred to in Paragraph (1) of this Article, authorised officials serving in the military intelligence branch and military police service shall also be issued an identity card of an authorised official which denotes their affiliation to one of the above elements.

(3) The design, content and method of issuing of military identity cards and special identity cards, which are provided for in the Geneva Convention on Protection of War Victims dated 12 August 1949, shall be prescribed by the Minister of Defence.

**Article 24**  
**(Foreign Awards)**

(1) Military person may receive a foreign decoration and wear it on ceremonial and other occasions only with the approval of the Presidency of Bosnia and Herzegovina, (hereinafter the Presidency).

(2) A professional military person may receive other foreign awards and wear them on ceremonial and other occasions only with the approval of the Minister of Defence.

**Article 25**  
**(Union & Political Organising)**

Professional military personnel shall be forbidden from organising in trade unions and political organisations.

**Article 26**  
**(Public Statements)**

(1) Military personnel shall be forbidden from giving public statements concerning the situation and relations within the Armed Forces without the written consent of the Minister of Defence.

(2) Paragraph (1) of this Article shall not apply to military personnel when they are asked to give testimony to parliamentary committees or in courts of law.

(3) The professional military personnel referred to in paragraph (2) of this Article shall comply with the provisions of the Law on Protection of Secret Information ("Official Gazette of BiH", no. /05)

**Article 27**  
**(Equal Opportunity)**

(1) Professional military personnel and individuals seeking to be accessed into the Armed Forces shall be treated with full respect for the principles of transparency, fairness, and equal opportunity. There shall be no discrimination on any ground such as sex, race, colour, language, religion, political or other opinions, ethnic or social background, association with a national minority, property or another status.

(2) The Minister of Defence shall ensure that the obligations specified in paragraph (1) of this Article are complied with in the Armed Forces.

**Article 28**  
**(Religious Activities and Freedom)**

(1) Military personnel shall be granted the right to conduct religious activities for the purpose of exercising their religious freedom in accordance with the tenets of whatever faith.

(2) Organisation and performance of religious activities from paragraph (1) of this Article shall be based on the principle of individual freedom of members of the Armed Forces to express themselves and perform religious services.

(3) Organisation of religious activities of the Armed Forces shall be primarily based on objective military needs.

(4) The Ministry of Defence, in cooperation with legally recognized churches and religious communities, shall prescribe the organisation and manner of functioning of religious activities in the Armed Forces and ensure the exercise of religious freedom as set forth in paragraph (1) of this Article.

**Article 29**  
**(Criminal Liability)**

(1) Personnel serving in the Armed Forces shall account for criminal offences pursuant to provisions of the Criminal Code.

(2) Criminal liability shall not exclude disciplinary responsibility of a person serving in the Armed Forces if the act committed also constitutes a violation of the military discipline.

(3) Release from criminal liability shall not imply release from disciplinary responsibility.

(4) A disciplinary proceeding shall be instituted and conducted regardless of the course of the criminal proceeding.

#### **Article 30**

##### **(Officials Authorised to Process Personnel Serving in the Armed Forces)**

Authorized professional military personnel serving in the military police shall act as officials authorised in accordance with the laws on criminal procedure in Bosnia and Herzegovina with regard to the operational and crime processing of persons serving in the Armed Forces who are suspected of having committed a criminal offence in or in relation with the service.

#### **Article 31**

##### **(Responsibility for Misdemeanour)**

Persons in service in the Armed Forces shall account for misdemeanours pursuant to the general regulations on misdemeanour.

#### **Article 32**

##### **(Military Discipline and Disciplinary Responsibility)**

(1) Military discipline shall mean the accurate, full, and timely exercise of military duty, i.e. execution of duties and tasks of military personnel as specified in this Law and other regulations, as well as orders issued by authorized persons and compliance with rules and principles of conduct in and outside military service.

(2) In case of a violation of military discipline, military personnel shall be subject to disciplinary responsibility pursuant to Chapter XX of this Law.

(3) The Minister of Defence shall issue an implementary regulation on military discipline and disciplinary proceedings pursuant to this Law.

#### **Article 33**

##### **(Material Responsibility)**

(1) Members of the Armed Forces shall be obliged to compensate the damage they inflict on the state of Bosnia and Herzegovina in connection with the exercise of their duties, intentionally or as a result of gross negligence.

(2) The obligation of the personnel stipulated in paragraph (1) of this Article and the responsibility of Bosnia and Herzegovina for the damage inflicted by members of the Armed Forces on third persons in connection with the exercise of their duties shall be determined in accordance with general regulations on damage compensation, unless otherwise stipulated by this Law.

#### **Article 34**

##### **(Procedure and Compensation)**

(1) Damage compensation shall be determined in accordance with a regulation governing obligatory relations.

(2) The Minister of Defence shall render a regulation on the procedure and competence for deciding in these matters.

### **CHAPTER IV - HEALTH CARE AND OTHER RIGHTS OF MILITARY PERSONNEL**

#### **Article 35**

##### **(Right to Health Care & Insurance)**

(1) Professional military personnel and members of their families shall have the right to health care and health insurance in accordance with the valid regulations on health care and health insurance.

(2) While in school, cadets shall be entitled to all forms of health care at the expense of the Ministry of Defence.

(3) Reserve personnel and their family members shall have the right to health care and health insurance in accordance with the valid regulations on health care and health insurance at the expense of the Ministry of Defence, unless they can exercise that right on another basis.

**Article 36**  
**(Right to Health Care After Discharge)**

(1) Military personnel shall have the right to all forms of health care after discharge from the Armed Forces for injuries or illness sustained during the service in the Armed Forces, the cost of which shall be borne by the Ministry of Defence.

(2) Persons referred to in Paragraph (1) of this Article shall have the right to free health care after discharge from the Armed Forces if:

- a) They report the illness or injury to an authorized medical commission,
- b) The illness or injury occurs during the service in the Armed Forces as a result of the service.

(3) Persons referred to in paragraph (2) of this Article, whose illness is diagnosed after they have been discharged from the Armed Forces, shall have the right to all forms of health care at the expense of the Ministry of Defence until they are cured or the illness is stabilised if an authorised medical commission determines that the illness occurred during their service in the Armed Forces.

**Article 37**  
**(Health Care for Dismissed Cadets)**

(1) Cadets who are dismissed from school because of the worsening of a medical condition which existed before they enrolled in the school, shall have the right to a health care appropriate for that illness until they are cured or the illness is stabilized for a period of no longer than two (2) years from the day of their dismissal from school, unless they can exercise their right to health care on another basis.

(2) Cadets shall not be entitled to health care from paragraph (1) of this Article if they have intentionally withheld or failed to disclose information about their health condition at the time of their accession into the Armed Forces.

**Article 38**  
**(Interruption in Schooling)**

(1) A cadet whose schooling is interrupted due to injury or illness, which occurred during his schooling, shall have the right to a financial assistance in order to continue regular education in another school of the same level.

(2) The amount of the financial assistance shall be determined in accordance with the financial situation of the cadet and his family members who live in the same household, as well as the cost of regular education, which shall be determined in detail by a regulation rendered by the Minister of Defence.

**Article 39**  
**(Rights in the Event of Death)**

(1) In the event of death, members of the immediate family of military personnel serving in the Armed Forces and cadets shall have the right to compensation for funeral expenses.

(2) The right referred to in paragraph (1) of this Article shall also accrue to the immediate family of deceased retired professional military personnel of the Armed Forces who acquired the right to pension immediately after their service in the Armed Forces

(3) Compensation referred to in paragraph (1) of this Article shall also accrue to professional military personnel in case of death of an immediate family member or another dependent family member from the same household.

(4) Immediate family members shall include: spouse, children, parents, stepfather, stepmother, adoptive parents and adopted children.

(5) Priority in exercise of rights to compensation of funeral expenses shall be determined in accordance with regulations on inheritance. If only one family member has borne the funeral expenses, then that family member shall be paid the compensation determined by the regulations.

**Article 40**  
**(Compensation for Funeral Expenses)**

(1) Compensation of funeral expenses shall include:

- a) Costs of transportation of mortal remains to the burial place

- b) Traveling expenses for two escorts
- c) Costs of a burial plot if the family does not already have one
- d) Other customary costs in the place where the funeral is held.

(2) The conditions, amount, and procedure for granting compensation of funeral expenses shall be prescribed by the Minister of Defence.

**Article 41**  
**(One-time Financial Assistance)**

(1) The following professional military personnel shall have the right to one-time financial assistance:

- a) Those who, through no fault of their own, sustain a wound or injury in performance of service duties or in connection with the service, resulting in a 20% physical disability,
- b) Those who, through no fault of their own, suffer at least a 20% physical disability due to an illness which has occurred or has been exacerbated as a direct consequence of military service.

(2) If a professional military person referred to in paragraph (1) of this Article, is killed or dies from a wound, injury or illness, the one-time financial assistance shall accrue to members of his immediate family.

(3) In terms of item b), paragraph (1) of this Article, acts of negligence shall not be considered as fault.

(4) The right to one-time financial assistance shall accrue to the immediate family of a person who is killed on arrival or departure from military service or in the course of being inducted or discharged from the Armed Forces.

(5) The conditions, amount, and procedure for granting one-time financial assistance shall be prescribed by the Minister of Defence.

**Article 42**  
**(Training of Spouses of Personnel Killed During Service)**

(1) The spouse of a professional military person who is killed under conditions described in Article 41 of this Law, but who does not meet the requirements for a family pension, may be sent to training upon his/her request, in order to acquire educational qualifications of level IV if, at the time of death, he/she did not have any qualifications and was unemployed.

(2) A professional military person who has suffered a disability while executing military service and is discharged from military service because of that, but does not meet conditions for retirement, may, at his personal request, be sent to training in order to acquire appropriate educational qualifications, which he did not have before.

(3) The training referred to in paragraphs (1) and (2) of this Article shall last no more than four years.

(4) The requirements for training of personnel and the amount of compensation for the training shall be prescribed by the Minister of Defence.

**CHAPTER V – PENSION AND DISABILITY INSURANCE OF MILITARY PERSONNEL**

**Article 43**  
**(Definition of Military Insuree)**

A military insuree is a professional military person in the Armed Forces who has that status pursuant to this Law.

**Article 44**  
**(Increased Qualifying Service)**

(1) Every 12 months military insurees spend effectively in service shall equal 16 months of qualifying service for insurance.

(2) Every 12 months military insurees spend effectively in service as general officers, shall equal 18 months of qualifying service for insurance.

(3) At the proposal of the Minister of Defence, the Council of Ministers of Bosnia and Herzegovina shall render a regulation specifying formation posts for which, due to the difficulty and complexity of tasks, a qualifying service for insurance longer than the period specified in paragraph 1 of this Article, but not exceeding 18 months, shall be approved.

**Article 45**  
**(Old Age Retirement)**

(1) A military insuree achieves the right to old age retirement when he reaches the age of 55 and at least 30 years of qualifying service for retirement.

(2) A military insuree achieves the right to old age retirement when he accrues 40 years of qualifying service for retirement, regardless of his age.

**Article 46**  
**(Early Old Age Retirement)**

(1) In the event of personnel rationalization and reduction in the Armed Forces, the military insuree from Article 43 of this Law shall have the right to early old age retirement when he reaches the age of 45 and accrues at least 20 years of qualifying service for retirement at the proposal of the Ministry of Defence.

**Article 47**  
**(Pension base and Pension Amount)**

(1) Exceptionally, at the proposal of the Ministry of Defence, a person shall meet the requirements for early old age retirement on the basis of a decision of the Presidency if he has accrued at least 20 years of qualifying service for retirement and has the rank of brigadier, regardless of age.

(2) Exceptionally, at the proposal of the Ministry of Defence, a person shall meet the requirements for old age retirement on the basis of a decision of the Presidency if he has a general officer rank, regardless of age and years of qualifying service for retirement.

(3) Exceptionally, at the proposal of the Ministry of Defence, a person shall meet the requirements for old age retirement on the basis of a decision of the Presidency, if he served as a brigade/regiment commander or a higher-level commander for at least 12 months during the war.

**Article 48**  
**(Pension Basis and Pension Amount)**

(1) The pension base for achieving the right to pension shall be calculated on the basis of the average monthly non-validated salary for the last five years prior to the year in which the right to retirement is achieved.

(2) The pension amount shall be set as a percentage of the pension base in accordance with the qualifying service for retirement; specifically, the amount of pension for 20 years shall be 55% of the pension base, and for each following year, it shall increase by 2%, never exceeding 75% of the pension base.

(3) The pension of the military insuree (general officer) from Article 47, paragraph (3) of this Law, shall be 75% of that military insuree's average salary for the last five years prior to the year in which the right to pension is achieved.

**Article 49**  
**(Special Conditions for Early Old Age Retirement)**

(1) A military insuree shall achieve retirement under the conditions set forth in this Law if he accrues at least 10 successive years of qualifying service for retirement with the status of a military insuree, and if he has the status of a military insuree at the time when the right to retirement is achieved.

(2) If a military insuree has accrued the special qualifying service pursuant to legal regulation, but does not have ten years of qualifying service for insurance as a military insuree, the special qualifying service shall also be taken into account when approving old age retirement.

**Article 50**  
**(Qualifying Service for Retirement)**

(1) Qualifying service for retirement achieved in the former republics of the Socialist Federal Republic of Yugoslavia and the Pension and Disability Institute for military insurees by 6 March 1992, i.e. 1 March 2002, shall be taken into account when granting and determining the scope of rights from the pension and disability insurance to which military insurees are entitled.

**Article 51**  
**(Disability and Family Pension)**

(1) A military insuree declared unfit for military service by an authorized medical commission shall achieve the right to a disability pension in accordance with disability pension requirements pursuant to entity laws on pension and disability insurance.

(2) The family of a military insuree who dies or is killed shall be entitled to a family pension in accordance with family pension requirements pursuant to entity laws on pension and disability insurance.

(3) The pension base for the pensions from paragraphs (1) and (2) of this Article shall be determined in accordance with Article 48 of this Law.

**Article 52**  
**(Funds)**

The funds required for granting the rights set forth in this Chapter of the Law shall be provided from the contributions paid for pension and disability insurance of military insurees pursuant to the valid entity legislation and from the budget.

**Article 53**  
**(Other Issues)**

Provisions of entity laws on pension and disability insurance shall apply to all pension insurance issues not covered by this Law.

**CHAPTER VI - WORKING HOURS AND ANNUAL LEAVE**

**Article 54**  
**(General Rules)**

(1) Full working hours shall be 40 hours a week.

(2) The full-time working schedule shall include a 30-minute break per workday, a break of at least 12 successive hours between two consecutive working days, and a weekly rest of at least 24 successive hours.

**Article 55**  
**(Longer Working Hours)**

(1) Longer working hours may be ordered by a brigade commander or an officer of the same or higher level in the following situations:

- a) When "stand-by" measures are ordered,
- b) When a military unit or institution is on alert,
- c) During military exercises,
- d) When a military unit is engaged in response to natural and other disasters,
- e) While on duty or performing similar duties,
- f) While performing tasks the suspension or interruption of which would be detrimental to combat readiness or would result in significant material damage or endanger the lives and health of military and other personnel,
- g) When so required to meet requirements from directives, regulations, and orders of the Minister of Defence.

(2) Exceptionally, a commanding officer at the level of brigade commander or higher may order longer working hours because of other emergency tasks of the military unit or institution.

(3) The work referred to in paragraph (2) of this Article may last no longer than 30 days in one calendar year, and the order of the relevant commander for that extension must be issued in writing.

(4) Orders to professional military personnel to work longer than regular working hours shall be done in accordance with directives, regulations, and orders of the Minister of Defence.

**Article 56**  
**(Basic Annual Leave and Absence)**

(1) Professional military personnel shall be entitled to annual leave that corresponds to the years of qualifying service for retirement:

- a) Up to 10 years of qualifying service for retirement – 20 working days
- b) From 10 to 20 years of qualifying service for retirement – 25 working days
- c) 20 years of qualifying service for retirement and more – 30 working days.

(2) Professional military personnel shall be entitled to up to seven working days of paid absence per calendar year, pursuant to all respective norms.

(3) During one calendar year, professional military personnel can be absent four days for the purpose of observing their religious or traditional needs, but the pay shall be approved for a two-day leave (paid leave).

(4) Professional military personnel on special duties shall be entitled to additional days of leave upon the approval of the brigade commander or an officer of the same or higher level, provided that the total number of the additional days does not exceed 36 working days.

(5) Professional military personnel may be granted up to seven working days of unpaid leave in case of a major family event upon the approval of the unit commander.

(6) Professional military personnel shall be entitled to up to five days of leave in order to relocate family when being posted to a new duty station.

(7) Professional military personnel shall be entitled to maternity leave in accordance with the valid legislation.

(8) Unpaid leave of up to 30 days may be granted to professional military personnel upon the approval of a brigade commander or an officer of the same or higher level.

(9) Professional military personnel shall have the right to use one day of their annual leave at their convenience, but they must notify and seek approval from their superior officer no later than three days before the leave starts.

**Article 57**  
**(Use of Annual Leave)**

(1) Annual leave shall be used in its entirety during the calendar year.

(2) As an exception to paragraph (1) of this Article, annual leave can be used in two parts either at personal request or in accordance with service requirements.

(3) If professional military personnel use leave partially, the first part shall last at least ten successive working days during the calendar year, and the second part shall be used no later than by 30 of June of the following year.

(4) Professional military personnel may not waive the right to annual leave, may not be deprived of it, and shall not be entitled to financial compensation for unused days of annual leave.

(5) Professional military personnel shall use annual leave in accordance with the Annual Leave Plan.

(6) If professional military personnel do not start using their annual leave during a calendar year, they shall be obliged to use the entire annual leave by no later than 30 June next year.

**Article 58**  
**(Interruption or Postponement of Leave)**

Professional military personnel may have their annual leave interrupted or postponed or they may be instructed not to leave their place of residence if so required by a pressing defence business for as long as such reasons exist, and upon the decision of the Minister of Defence.

**Article 59**  
**(Additional Regulations)**

(1) The Minister of Defence shall render regulations defining the schedule, start and end of working hours for a day or a longer period of time, based upon work conditions and the nature of tasks of the military unit or institution.

(2) The Minister of Defence shall render regulations defining the method and criteria for using annual leave and associated administrative procedures.

**CHAPTER VII – SALARIES, ALLOWANCES AND OTHER BENEFITS**

**Article 60**  
**(Entitlement to Pay, Allowances & Other Benefits)**

Professional military person shall be entitled to salary, allowances and other benefits in accordance with this Law.

**Article 61**  
**(Salary & Allowances)**

(1) Salaries of professional military personnel shall consist of a basic salary and allowances.

(2) The basic salary of a professional military person shall be calculated in the following manner: the personal rank coefficient multiplied by the salary calculation basis plus 0.5% for each year of the qualifying service for retirement.

(3) A professional military person shall be entitled to a 20% increase of his basic salary for night work, national holidays spent on duty, on-duty hours, and mandatory presence and readiness, but not to remunerations for working after the legally prescribed regular working hours prescribed.

(4) In addition to the salary in paragraphs (2) and (3) of this Article, a professional military person, due to the difficulty and complexity of his tasks, shall be entitled to the following allowances: special military allowance (deminer's allowance, fliers' allowance, allowance for service at isolated high-altitude facilities and other duties where professional military personnel are exposed to health hazards), and the formation post allowance.

(5) The Minister of Defence shall render a special regulation to specify posts entitled to allowances from paragraph (4).

(6) Salaries and other remunerations of military personnel shall be defined in regulations rendered by the Minister of Defence.

(7) The Council of Ministers of Bosnia and Herzegovina shall determine the salary base.

**Article 62**  
**(Salary Start Date)**

(1) After graduating from a military school, professional military personnel shall be entitled to salary as of the day of accession into professional military service.

(2) Salaries of professional military personnel who join the Armed Forces on any other basis shall be calculated from the day of entry on duty.

**Article 63**  
**(Salary of Acting Officers)**

(1) An "acting" officer shall receive the salary and remuneration associated with the position to which he is assigned.

(2) The rights stipulated in paragraph (1) of this Article shall also be accorded to professional military personnel performing duties of or replacing other military personnel in their absence, if that performance of duties or replacement lasts more than 30 days.

**Article 64**  
**(Allowance Payment During Suspension or Detention)**

(1) During periods of detention or suspension from duty, a professional military person shall be paid compensation in the amount of 75%, or, if he supports a family, 85% of the basic salary to which he would have been entitled had he not been suspended or placed in detention.

(2) Full salary shall be granted to a professional military person from the day of reinstatement, but if an appeal overturns the decision on suspension, he shall be entitled to full arrears of salary from the first day of suspension.

(3) A professional military person shall also be paid the withheld part of the salary in the following cases:

- a) If a disciplinary measure or sanction is vacated, but not if the decision is based on the expiration of the statute of limitations,
- b) If he is acquitted of responsibility or the charges against him are rejected or dropped by a valid decision in criminal or disciplinary proceedings, but not if the decision is based on lack of jurisdiction.

(4) During time in prison, a professional military person shall not be entitled to salary or salary arrears.

**Article 65**  
**(Salaries During Temporary Assignments)**

Professional military personnel temporarily assigned to other positions in the Armed Forces, Ministry of Defence of Bosnia and Herzegovina or other government bodies, agencies or legal entities, shall be entitled to salaries and other remunerations in accordance with Article 61 of this Law, if that is more advantageous for them.

**Article 66**  
**(Salaries During Diplomatic Assignments)**

Professional military personnel assigned to military delegations abroad shall receive salaries and other remunerations in accordance with regulations governing the salaries and remunerations of diplomatic and consular missions personnel of Bosnia and Herzegovina, in accordance with the laws of Bosnia and Herzegovina and regulations of the Minister of Defence.

**Article 67**  
**(Additional Regulation)**

The Minister of Defence shall render a regulation on salaries, allowances, remunerations and other rights of military-diplomatic delegations, members of military and peace support missions, and other representatives in military or military-diplomatic missions.

**Article 68**  
**(Other Assignments Abroad)**

Professional military personnel and other members of the Armed Forces sent abroad to perform duties resulting from international agreements, or sent to international military missions, shall receive salaries and other remunerations in accordance with a regulation rendered by the Minister of Defence.

**Article 69**  
**(Salary and Scholarship During Schooling and Professional Development Abroad)**

(1) Professional military personnel sent abroad for the purpose of education or professional development shall receive a scholarship the amount of which shall be established by the Minister of Defence.

(2) Besides the scholarship, if the family of the person from paragraph (1) of this Article remains in Bosnia and Herzegovina, the person shall also receive the basic salary he would be entitled to, were he not sent abroad.

**Article 70**  
**(Rewards for Exceptional Work)**

Professional military personnel may be rewarded financially for exceptional professional achievements and deeds of importance for the Armed Forces in accordance with regulations rendered by the Minister of Defence.

**Article 71**  
**(Unjustified Absence From Duty)**

Professional military personnel shall not receive salaries and remunerations for hours and days of unjustified absence from duty.

**Article 72**  
**(Remuneration of Cadets)**

- (1) Financial and other remunerations of military school cadets shall be governed by a regulation rendered by the Minister of Defence.
- (2) Financial remunerations of cadets sent for education shall be exempt from court and administrative writs of execution.
- (3) Cadets shall be entitled to military uniforms, personal equipment, food and accommodation free of charge.

**Article 73**  
**(Compensation of Official Travel Expenses)**

- (1) Professional military personnel shall be entitled to compensation of official travel expenses.
- (2) The eligibility criteria and the amount of compensation referred to in paragraph (1) of this Article shall be prescribed by the Minister of Defence.

**Article 74**  
**(Compensation of Travel Expenses to Work and Back)**

- (1) Professional military personnel shall be entitled to compensation of travel costs to work and back. The eligibility criteria and the amount of compensation referred to in this Article shall be prescribed by the Minister of Defence.

**Article 75**  
**(Annual Leave Allowance)**

Professional military personnel shall be entitled to an annual leave allowance in the amount of at least 70% of their salaries stated in the executive decision on salary, or at least the amount equal to the average salary in BiH for the last three months prior to the executive decision on allowance, if that is more advantageous for them.

**Article 76**  
**(Retirement Severance Pay)**

Professional military personnel shall be entitled to a retirement severance pay in the amount of six salaries paid to them in the last six months, or six average monthly salaries in Bosnia and Herzegovina according to the latest bulletin issued by a relevant statistical institute, if that is more advantageous for them.

**Article 77**  
**(Relocation Expenses)**

- (1) Professional military personnel transferred from one place of service to another shall be entitled to moving expenses compensation pursuant to this Law.
- (2) The right stipulated in Article (1) of this Law shall be accorded to professional military personnel who are retiring from service, if they will be relocated.

**Article 78**  
**(Family Separation Allowance)**

Professional military personnel transferred to a different location who support family members living in the same household, shall be entitled to a family separation allowance, unless they have personally requested the transfer. The eligibility criteria and the amount of the allowance shall be defined by a regulation rendered by the Minister of Defence.

**Article 79  
(Hot Meal Allowance)**

Professional military personnel shall be entitled to a hot meal allowance when on duty, insofar as free meals are not provided at the place of duty.

**Article 80  
(Temporary Accommodation Allowance)**

(1) Due to the specific nature of service, professional military personnel shall be entitled to a temporary accommodation allowance from the day of reporting for duty, if their place of residence is over 60 km away from the duty station.

(2) The method of regulating accommodation allowance from paragraph (1) of this Article shall be regulated by a special regulation rendered by Minister of Defence. After the expiration of the maximum period defined by the Ministry of Defence, the specific nature of service shall be considered a permanent change of duty station, rather than a temporary assignment. Such permanent change of duty station shall be subject of an additional regulation rendered by the Minister of Defence.

**Article 81  
(Other Allowances)**

Professional military personnel accessed into professional military service for the first time shall be entitled to a military uniform free of charge and a one-time allowance for the purchase of the remaining personal equipment, in the amount set forth by the Minister of Defence.

**CHAPTER VIII - STANDARDS OF CONDUCT**

**Article 82  
(Maintaining the Highest Standards of Conduct)**

(1) All professional military personnel serving in the Armed Forces shall be obliged to achieve and maintain the highest professional and personal standards set forth by this Law, the Law on Defence, and the Code of Conduct applicable to members of the Armed Forces.

(2) The Inspector General shall oversee the implementation of the Code of Conduct from paragraph (1) of this Article.

**Article 83  
(Duty to Obey the Law)**

(1) All military personnel serving in the Armed Forces shall have a duty to uphold and obey the laws of Bosnia and Herzegovina, the Entities, and the Brcko District of Bosnia and Herzegovina.

(2) Military personnel serving in the Armed Forces shall not take, direct or recommend any action known or believed to be in violation of existing laws, policies or regulations.

(3) When deployed in operations, military personnel of the Ministry of Defence and the Armed Forces shall comply with provisions of the Law on Participation of Members of the Armed Forces of Bosnia and Herzegovina, Police Officers, Civil Servants, and other Personnel in Peace Support Operations and Other Activities Abroad ("The Official Gazette of BiH", no. 14/05) and respect laws of the host country.

(4) All military personnel serving in the Armed Forces shall comply with provisions of the General Framework Agreement for Peace in Bosnia and Herzegovina.

**Article 84  
(Conflict of Interest)**

When attending to their personal affairs, all professional military personnel serving in the Armed Forces shall behave in such a way as to avoid any actual or apparent conflict between their professional duties and their private, political, or financial interests.

**Article 85  
(Specific Prohibitions)**

In order to avoid any actual or apparent conflict of interest, professional military personnel serving in the Armed Forces shall be specifically prohibited from:

- a) Using their official position to press, coerce or in any way influence any person in order to achieve a personal, financial or other gain for themselves or others,
- b) Holding financial interests that conflict with the conscientious performance of their duties,
- c) Engaging in outside employment or any other activities that conflict with official government duties and responsibilities,
- d) Attempting to influence public officials for their private gain,
- e) Using government property for personal gain, or for any unauthorised purpose,
- f) Soliciting or accepting gifts or other items of monetary value from any person or organisation seeking official action from, doing business or conducting activities with the Armed Forces, or from anyone whose financial, professional, or personal interests may be substantially affected by the performance or non-performance of professional military personnel's duties.

**Article 86**  
**(Exceptions to the Ban on Gifts)**

(1) Notwithstanding provisions of Article 85, paragraph (1), item f) of this Law, professional military personnel in the Armed Forces may accept:

- a) Gifts offered by an official representative of a foreign country on behalf of the state or the Armed Forces. Such gifts shall become the official property of the state and not the property of the individual receiving the gift, except in a limited number of exceptions defined in a regulation rendered by the Minister of Defence. Personnel shall report such gifts to their superior;
- b) Honoraria or gifts received from any individual or organisation for professional engagements, as long as the aggregate value of all items or services received does not exceed a total of 100 KM. 'Honoraria' and 'presents' shall include food, services, movable items, and items of little value;
- c) Presentations from or to subordinates upon such occasions as promotion, retirement, change of command, or other professional accomplishments, as long as the aggregate value of all presentations does not exceed a total of 400 KM;
- d) Gifts from subordinates to superiors on special occasions such as weddings, birthdays, anniversaries, and similar events, as long as the aggregate value does not exceed a total of 400 KM.

(2) All gifts or honoraria received pursuant to this article shall be reported to the superior officer of professional military personnel when that is required in accordance with a regulation rendered by the Minister of Defence.

**Article 87**  
**(Specific Obligations)**

In order to avoid any actual or apparent conflict of interest, professional military personnel serving in the Armed Forces shall:

- a) Take decisions that are in the best interest of the Ministry of Defence and the Armed Forces, without regard to their personal beliefs or relationships,
- b) Meet all legal and financial obligations, including the payment of taxes,
- c) Protect and preserve government property,
- d) Disclose fraud and corruption.

**Article 88**  
**(Membership in Associations)**

(1) Professional military personnel serving in the Armed Forces may engage in activities of associations and non-governmental organisations only if those activities are in compliance with this Law.

(2) A professional military person may become a member of a foreign professional association or international organisation only upon the approval by the Minister of Defence.

**Article 89**  
**(Training in Standards of Conduct)**

- (1) The Office of the Inspector General shall brief all personnel acceding into the Armed Forces on issues related to standards of conduct.
- (2) Every unit shall conduct annual "Standards of Conduct" training to ensure that all professional military personnel are reminded of their responsibilities.

**CHAPTER IX - PERSONNEL RECORDS MANAGEMENT**

**Article 90**  
**(Definitions)**

- (1) "Primary Personnel Records" are basic records pertaining to individuals employed as professional military personnel and reserve personnel in the Armed Forces. They include such items as identification and qualification documents, contract, education-related documents, performance evaluations, as well as other documents relevant to the engagement of professional military personnel serving in the Armed Forces.
- (2) "Military Performance Records" are auxiliary records for military personnel, kept for the purpose of personnel management and professional development. They consist of copies of documents from primary personnel records and other documents that may support decisions by the authorised authority regarding the schooling, training, promotion, and recommendation for new assignments of military personnel.
- (3) "Records management" means activities of planning, controlling, directing, organising, training and promoting for the purpose of the update, maintenance, use and disposing with primary personnel records and military performance records.

**Article 91**  
**(Records Management and Control)**

- (1) The Minister of Defence shall establish an effective and systematic control of primary personnel records and military performance records in order to ensure that authorized superior officers have all information they need.
- (2) Military personnel records management shall ensure that the service record of military personnel, from accession to separation, is documented, and it shall protect the privacy of personnel and the rights and interest of the Armed Forces. Personnel records management shall include:
  - a) Establishment of individual records,
  - b) Ensuring that all established records are properly maintained and stored and that they are used only by duly authorised officials and only for official purposes,
  - c) Ensuring that primary personnel records are kept and that all other records are destroyed.

**Article 92**  
**(Responsibility for Primary Personnel Records)**

- (1) The Ministry of Defence shall develop regulations and procedures for the creation and maintenance of primary personnel records for all personnel serving in the Armed Forces.
- (2) The Personnel Department of the Support Command shall be responsible for creating and maintaining primary personnel records for all personnel serving in the Armed Forces in accordance with the regulations and procedures rendered by the Minister of Defence.

**Article 93**  
**(Responsibility for Military Performance Records)**

- (1) Military performance records shall be created and maintained in the battalion, brigade, equal or higher level units.
- (2) The Ministry of Defence shall create and maintain military performance records for professional military personnel assigned to the Ministry of Defence.

**Article 94**  
**(Additional Regulations)**

(1) The Minister of Defence shall adopt regulations necessary to implement a personnel records management system that will govern the creation, maintenance, use, and keeping of primary personnel records and military performance records.

(2) The personnel records management system shall address the following issues:

- a) Documents necessary for the creation of personnel and performance records,
- b) Maintenance and use of personnel and performance records,
- c) Instructions to subordinate commands related to document submission and the maintenance and use of personnel and performance records,
- d) Security measures that ensure the privacy of every individual,
- e) Procedures for records keeping,
- f) Transfer of personnel and performance records to electronic personnel files,
- g) Measures of positive control over personnel and performance records for conducting daily activities within the Ministry of Defence and the Armed Forces.

**CHAPTER X - MILITARY PERSONNEL CLASSIFICATION SYSTEM**

**Article 95**  
**(Classification of Military Personnel)**

(1) Upon accession into the Armed Forces, military personnel shall be assigned a military occupational specialty.

(2) Military occupational specialties shall identify the groups of formation posts that require closely related skills. Professional military personnel qualified for one post within a military occupational specialty may perform duties in any other post of the same level of complexity and difficulty.

(3) The military occupational specialty shall be determined for each professional military person on the basis of the factors listed in Article 96 of this Law, and shall be stated in individual military service contracts.

(4) Professional military personnel may receive additional classifications throughout their career in the Armed Forces in order to meet the needs of the Armed Forces.

**Article 96**  
**(Classification Factors)**

Military personnel shall be classified in specific military occupational specialties based on the following factors:

- a) Needs of the Armed Forces as the primary factor,
- b) Individual education, training, and experience,
- c) Individual preferences,
- d) Physical capabilities and other qualifications.

**Article 97**  
**(Establishment of a Military Personnel Classification System)**

(1) The Minister of Defence shall issue regulations required for the establishment of a Military Personnel Classification System that will regulate:

- a) Classification criteria and conditions
- b) Classification procedures,
- c) Personnel structure classification.

(2) The regulations referred to in paragraph (1) of this article shall regulate:

- a) A list of military occupational specialties in the Armed Forces including the names of formation posts,
- b) Defined procedures for determining military occupational specialties in the process of accession of military personnel into the Armed Forces,
- c) Conditions for assigning additional military occupational specialties,
- d) Procedures for the maintenance of military occupational specialties records for military personnel.

#### **Article 98**

##### **(Personnel Record Keeping and Unit Strength Reporting)**

- (1) Every unit shall maintain an accurate status record for all officers, NCOs and soldiers in that unit in order for the chain of command to be informed on the overall unit strength.
- (2) All units shall regularly report on ranks and specialties of unit personnel pursuant to regulations rendered by the Minister of Defence.
- (3) The Minister of Defence shall render regulations on personnel record keeping and unit strength reporting for the Armed Forces.

### **CHAPTER XI - CAREER MANAGEMENT SYSTEM**

#### **Article 99**

##### **(Definition)**

A career management system shall ensure that the service contracts of military personnel are extended according to individual needs of personnel and needs of the Armed Forces.

#### **Article 100**

##### **(Time in Professional Military Service)**

- (1) Maximum time in service for professional military personnel in the Armed Forces shall be as follows:
  - a) Officers – 30 years, but the age limit is 55.
  - b) Non-commissioned officers (OR5-9) – 30 years, but the age limit is 50, and
  - c) Soldiers (OR1-4) – 15 years, but the age limit is 35.
- (2) If there is a service requirement to that effect, the Minister of Defence may extend officers' and NCOs' service beyond the age limits stipulated in paragraph (1), items a) and b) of this Article.

#### **Article 101**

##### **(Time in Reserve Service)**

- (1) Service in the reserves shall start after the end of professional military service and it shall last:
  - a) Officers – 10 years, but the age limit is 55,
  - b) Non-commissioned officers (OR5-9) – 7, but the age limit is 50,
  - c) Soldiers (OR1-4) – 4 years, but the age limit is 35.
- (2) The time in service for specialist reserve personnel recruited pursuant to Article 9 of this Law shall last four years, but the age limit is 55.
- (3) The reserve obligation defined in paragraphs (1) and (2) of this Article may be altered by a decision of the Minister of Defence in accordance with the needs of the Armed Forces.

#### **Article 102**

##### **(Timing of Decisions on Service Extension)**

- (1) Professional military personnel shall be considered for contract extension at the following times:
  - a) Officers – after 3, 6, 10, 15 and 20 years in service,
  - b) Non-commissioned officers – after 3, 6, 10, 15, and 20 years in service,

c) Soldiers – after 3, 6 and 10 years in service.

(2) Reserve personnel without previous military experience, but with special professional skills, shall sign a separate contract which can be extended pursuant to Article 100, paragraph (2) of this Law.

**Article 103**  
**(Compulsory Contract Extension)**

In the event of state of war, state of emergency, or in order to prevent lessening of the operational effectiveness of a unit on a mission, the Minister of Defence may order that the contract of one or more members be extended for a period required to ensure the operational effectiveness and until such time when it is possible to find a suitable replacement for that member or members.

**Article 104**  
**(Contract Extension Commissions)**

(1) Contract Extension Commissions shall convene upon decision of the Minister of Defence. A single, central contract extension commission shall convene to make decisions on contract extensions for all professional military personnel, with the exception of commissions deciding on contract extensions for OR1 to OR4 which may be done at brigade level.

(2) The date of the convening of a Contract Extension Commission shall be advertised at least 6 months in advance except for commissions deciding on contract extensions for OR1 – OR5, which shall be convened 3 months in advance.

**Article 105**  
**(Composition of Contract Extension Commissions)**

(1) The Minister of Defence shall appoint Contract Extension Commission members.

(2) A Contract Extension Commission shall consist of 5 members. The President of the Commission shall be at least 2 ranks higher than the person being considered for contract extension, and the members of the commission shall have at least the same rank or higher. The Commission shall be composed of:

a) Junior Enlisted Contract Extension Commissions (OR-1- OR-4):

- 1) OF -4 (President),
- 2) OF -3,
- 3) OF-2 (x 2),
- 4) OR-9.

b) NCO Contract Extension Commissions (OR-5 - OR 9):

- 1) OF-4 (President),
- 2) OF-3,
- 3) OF-2 (x2),
- 4) OR-9.

c) Officer Contract Extension Commissions (OF-1 – OF-3):

- 1) OF -5 (President),
- 2) OF- 4 (x 4),

d) Officer Contract Extension Commissions (OF-4 - OF-5):

- 1) OF-7 (President),
- 2) OF- 6 (x2),
- 3) OF- 5 (x2).

(3) All three constituent peoples shall be represented in each commission, and decisions of all commissions shall be made unanimously.

**Article 106  
(Procedure)**

(1) When considering a candidate for contract extension, the presidents of contract extension commissions shall be presented with a file containing the following details for each candidate:

- a) Annual evaluations,
- b) Certificates of courses and schools attended and completed,
- c) Disciplinary records,
- d) A summary sheet containing a synopsis of civilian and military qualifications, and
- e) A record of assignments and incentives.

(2) A contract extension commission shall consider each candidate for contract extension on the basis of the documentation submitted pursuant to paragraph (1) of this Article and shall submit a list of those recommended for contract extension, in order of merit, to the Minister of Defence.

(3) The Minister of Defence shall approve contract extensions in accordance with the list submitted by the Contract Extensions Commission.

**Article 107  
(Work of Commission)**

Contract extension commissions for NCOs and officers shall be held as often as required and upon decision of the Minister of Defence.

**Article 108  
(Conditions for Contract Extension)**

Conditions for contract extension are as follows:

- a) Appropriate educational background
- b) Necessary time in current rank
- c) Completion of necessary civilian and military education
- d) Recommendation for contract extension in last 2 evaluations.

**Article 109  
(Additional Regulations)**

The Minister of Defence shall issue a regulation defining criteria and procedures for the effective functioning of the career management system.

**CHAPTER XII - PROMOTION**

**Article 110  
(Promotion)**

(1) The procedure for the promotion of professional military personnel below the rank of general shall be governed on the basis of this Law and other regulations rendered by the Minister of Defence. Procedures for the promotion of professional military personnel shall be transparent and shall ensure that the most deserving professional military personnel are promoted based on past performance and future potential to serve in positions of greater responsibility.

(2) Promotions of General Officers shall be conducted in accordance with the Law on Defence.

(3) Promotions shall be done in accordance with an annual promotion plan, and the number and structure of ranks available for promotion.

**Article 111  
(Promotion Commissions)**

(1) Promotion Commissions shall be responsible for selecting professional military personnel for promotion to the next higher rank.

(2) Promotion Commissions shall convene upon decision of the Minister of Defence. A single, central promotion commission shall convene to consider all candidates for promotion to the next rank, with the exception of commissions considering candidates for promotion from OR-1 to OR-4 which may be done at Brigade level.

(3) The date when a Promotion Commission convenes shall be advertised at least six months in advance except for Commissions dealing with the promotion of OR-1 – OR-5, which shall be advertised at least 3 months in advance.

**Article 112**  
**(Composition of Promotion Commissions)**

(1) The Minister of Defence shall appoint Promotion Commission members.

(2) A Promotion Commission shall consist of 5 members. The President of the Commission shall be at least 2 ranks higher than the person being considered for promotion, and the members of the commission at least 1 rank higher.

(3) Commissions shall consist of:

a) Junior Enlisted Promotion Commissions composition (OR-2-OR-4)

- 1) OF-4 (President)
- 2) OF-3,
- 3) OF-2 (x 2),
- 4) OR-9.

b) NCO Promotion Commissions composition (OR-5-OR-9):

- 1) OF-4 (President),
- 2) OF-3,
- 3) OF-2 (x 2),
- 4) OR-9.

c) Officer Promotion Commissions (OF-1/SLT-OF-3):

- 1) OF-5 (President),
- 2) OF-4 (x 4).

d) Officer Promotion Commissions (OF-4-OF-5):

- 1) OF-7 (President),
- 2) OF-6,
- 3) OF-5 (x 3).

(4) All three constituent peoples shall be represented in each commission, and decisions of all commissions shall be made unanimously.

**Article 113**  
**(Procedure)**

(1) When considering a candidate for promotion, a Commission shall be presented with files containing the following details for each candidate:

- a) Annual evaluations,
- b) Certificates for courses and schools attended and completed,
- c) Disciplinary records,
- d) A summary sheet containing a synopsis of civilian and military qualifications,
- e) A record of assignments and incentives.

(2) The Promotion Commission shall consider each candidate for promotion on the basis of the documentation submitted pursuant to paragraph (1) of this Article, and shall submit a list of those recommended for promotion, in merit order, to the Minister of Defence.

(3) The Minister of Defence shall promote professional military personnel in accordance with the list submitted by the Promotion Commission.

**Article 114**  
**(Work of Commission)**

(1) Promotion commissions for NCOs and officers shall convene at least once a year.

(2) Promotion commissions for soldiers shall convene as required.

**Article 115**  
**(Conditions for Promotion)**

Conditions for promotion are as follows:

- a) Appropriate level of education,
- b) Necessary time in present rank,
- c) Necessary civilian and military education and professional development in accordance with regulations to be rendered by the Minister of Defence,
- d) Recommendation for promotion in the last 2 evaluations,
- e) Appointment to a higher-rank formation post, or there is a vacant higher-rank formation post,
- f) For promotion in rank OF-5, professional military personnel with personal rank OF-4 must spend at least one year in an OF-5 formation position.

**Article 116**  
**(Periods Required for Promotion)**

In order to be considered for promotion, professional military personnel must have completed a minimum time in their personal rank as follows:

- a) OF-1 - 3 Years
- b) OF-1 - 3 Years
- c) OF-2 - 4 Years
- d) OF-3 - 5 Years
- e) OF-4 - 5 Years
- f) OF-5 - 5 years
- g) OR-5 - 3 Years
- h) OR-6 - 3 Years
- i) OR-7 - 4 Years
- j) OR-8 - 5 Years

**Article 117**  
**(Early Promotion)**

For professional military personnel evaluated as “excellent” three times in a row, the promotion period will be reduced by one year with regard to the time they need to spend in the rank.

**Article 118**  
**(Exceptional Promotion)**

(1) NCOs or officers who achieve extraordinary work results and show exceptional skills may be exceptionally promoted to the next higher rank if they have spent two-thirds of the time stipulated in this Law in a particular rank and if they have spent at least one year performing duties of the higher rank.

(2) Detailed conditions and procedures for exceptional promotion of NCOs or officers up to the rank of Colonel, stipulated in paragraph (1) of this Article, shall be prescribed by the Minister of Defence.

**Article 119**  
**(Promotion and Service Abroad)**

(1) Exceptionally, at the proposal of the Minister of Defence, professional military personnel serving in peacekeeping missions, diplomatic missions, multilateral military organisations abroad, or other temporary special assignments, may be promoted by the BiH Presidency to a rank that is no more than one rank above their personal rank for the duration of such service.

(2) Professional military personnel shall be entitled to all the rights accorded to the temporary rank for the duration of the service stipulated in paragraph (1).

(3) Upon the termination of service in peacekeeping missions, diplomatic missions, multilateral military organisations abroad, or other temporary special assignments, professional military personnel shall be entitled to all the rights accorded to their personal military rank in accordance with this Law.

**Article 120**  
**(Promotion of Reserve Personnel)**

Provisions of this Chapter of this Law shall apply to promotion of reserve personnel.

**CHAPTER XIII - EVALUATION**

**Article 121**  
**(Basic Rules and Principles)**

(1) Evaluations of professional military personnel shall be conducted transparently and equitably and shall be used as the basis for promotion and selection of professional military personnel for military education.

(2) Evaluations will consider the ability, responsibility, leadership, professionalism, training and military bearing.

(3) Evaluations shall be rated "Excellent", "Good", "Improvement needed" and "Bad".

(4) Professional military personnel performance shall be evaluated every calendar year or based on service requirements.

(5) Reserve personnel shall be evaluated after each engagement in active military service, including exercises and operations.

(6) Professional military personnel who have worked less than six months in a calendar year shall not be evaluated, regardless of the reasons for their absence from duty.

(7) All evaluations shall be signed and entered into the Primary Personnel Record and Military Performance Record. A signed copy of each evaluation must also be given to the person who is the subject of evaluation.

**Article 122**  
**(Basic Procedures)**

(1) Each evaluation shall consist of two sections:

a) Previous evaluation by the subject's immediate superior or whichever person is identified by that immediate supervisor as being most familiar with the daily work of the subject. Whichever the case, this person must also have served in the current position for a minimum of 90 days on the date of evaluation.

b) A secondary evaluation provided by the immediate superior of the person conducting the primary evaluation. This person must have served in the current position for a minimum of 60 days on the date of evaluation.

(2) Prior to each evaluation, persons responsible for evaluations referred to in paragraph (1) of this Article shall discuss the evaluation and reach an agreement upon its overall content.

**Article 123**  
**(Consequences of Evaluations)**

- (1) Contracts of professional military personnel rated “bad”, or rated “improvement needed” in three consecutive evaluations, shall be terminated.
- (2) Contracts of professional military personnel rated “excellent” in three consecutive evaluations shall have their promotion period shortened by one year in accordance with Article 117 of this Law.

**Article 124**  
**(Objection and Appeal Against Evaluation)**

- (1) Professional military personnel shall have the right to lodge an objection to an evaluation.
- (2) An objection to an evaluation shall be lodged within 8 days from receipt of the evaluation and it shall be decided by the person who conducted the primary evaluation. The decision on this objection must be made within 30 days.
- (3) An appeal against the decision on the objection mentioned in paragraph (2) of this article shall be submitted within 15 days and decided by the immediate superior of the person who conducted the primary evaluation. The decision on this appeal must be made within 60 days.
- (4) It is the responsibility of the senior reporting officer to ensure that the total length of the objection-lodging process described in paragraphs (1) and (2) of this Article does not exceed 90 days.
- (5) It shall not be possible to institute administrative proceedings against the final decision on evaluation.

**Article 125**  
**(Additional Regulations)**

The Minister of Defence shall issue a regulation defining the evaluation criteria, administrative procedures, and objection-lodging procedures.

**CHAPTER XIV - DECORATIONS, AWARDS AND COMMENDATIONS**

**Article 126**  
**(Awards)**

- (1) Professional military personnel may be awarded decorations, awards and commendations for exceptional courage and/or outstanding success achieved while serving in units, commands and institutions.
- (2) Citizens, foreign citizens, and other legal persons may be awarded decorations, plaques and other commendations for their contribution to the Armed Forces.

**Article 127**  
**(Types of Awards)**

Commendations may be presented in written and verbal form. Written commendations and awards shall be presented by a brigade commander, or a commander of the same or higher level.

**Article 128**  
**(Regulations)**

- (1) Decorations shall be determined by a separate law.
- (2) Awards and other commendations shall be defined by a regulation rendered by the Minister of Defence.

**CHAPTER XV - SERVICE STATUS**

**Article 129**  
**(Service Status)**

While in service in the Armed Forces, professional military personnel may be:

- a) On duty,
- b) On traineeship,
- c) Attending education or professional development,

- d) On sick leave,
- e) On redundancy leave,
- f) Suspended from duty.

**Article 130**  
**(Duty within Institutions)**

Professional military personnel may be on duty in headquarters, commands, units or institutions of the Armed Forces and the Ministry of Defence.

**Article 131**  
**(Criteria for Appointment)**

(1) Professional military personnel shall be assigned to appropriate posts in accordance with service requirements:

- a) Based on professional qualifications,
- b) Based on rank,
- c) Based on military occupational specialty,
- d) Based on special skills required for that position.

(2) Assignment to a determined formation post of a military occupational specialty shall be considered as appointment according to personal military occupational specialty.

**Article 132**  
**(Appointment Competencies)**

(1) The Presidency shall appoint all professional military persons to formation posts that require general officer ranks based on the proposal from the Minister of Defence.

(2) All other professional military persons shall be appointed by the Minister of Defence.

**Article 133**  
**(Assignment to Formation Posts)**

(1) Professional military personnel shall be assigned to a position in a regiment or service in accordance with individual rank and military occupational specialty.

(2) Professional military personnel who demonstrate above-average capabilities in the performance of their duties may be assigned to higher rank positions.

(3) Exceptionally, in accordance with service requirements and upon their written consent, professional military personnel may be assigned to lower rank positions for a period not to exceed two years.

**Article 134**  
**(Appointment to Lower Rank Posts)**

Professional military personnel referred to in Article 133, paragraph (3) of this Law may be assigned to lower rank formation posts in the following situations:

- a) Due to the cancellation of a post or change in the structural elements of the formation post,
- b) Due to a reassignment upon personal request,
- c) When relieved of duties, and there is no possibility for appointment to a post for which the current rank is required,
- d) When certain posts cannot be filled, and the interests of the service require so,
- e) When an authorised medical commission proposes a change of post, and there is no possibility for deployment to an appropriate post.

**Article 135**  
**(Vacancy Notices and Announcements)**

- (1) Vacancies within the Armed Forces shall be established based on the personnel accounting and unit strength reporting system in Article 98 of this Law.
- (2) Staffing of vacancies in the Armed Forces with professional military personnel shall be conducted through vacancy notices or announcements, except for cadets and scholarship holders after graduation.
- (3) The selection of candidates pursuant to a vacancy notice shall be done by a commission appointed by the Minister of Defence.

**Article 136**  
**(Appointment to Other Branches/Services)**

Professional military personnel may be appointed to formation posts in another branch or service, depending on service requirements, in the following cases:

- a) Cancellation of the post to which they are assigned or changes in the structural elements of that post, and
- b) Loss of medical fitness required for performing the duties in the post to which they are appointed, provided that there is no possibility for deployment to an appropriate post.

**Article 137**  
**(Acting Officers)**

- (1) Acting officers shall be assigned when a professional military person is temporarily prevented from performing a duty.
- (2) Acting Officers may be assigned to vacant establishment posts.
- (3) Acting Officers assignments may last up to one year from the day of assignment.
- (4) Time on duty from paragraphs (1) and (2) of this Article, if that is a promotion requirement, shall be counted as if professional military personnel were permanently appointed to that post.
- (5) Professional military personnel who are appointed in accordance with paragraphs (1) and (2) of this Article shall maintain the status and all the rights associated with their previous post if that is more advantageous for them.

**Article 138**  
**(Traineeship)**

- (1) After completing their education, professional military personnel (medical doctors, economists, lawyers, and other similar occupations) shall be admitted as trainees in order to gain experience necessary for the independent performance of their duties.
- (2) Traineeship period referred to in paragraph (1) of this Article shall last no more than one year.
- (3) Time spent as trainee shall be included in the time in rank.
- (4) The Minister of Defence shall render a regulation regarding the traineeship referred to in this Article.

**Article 139**  
**(Education and Professional Development)**

- (1) Professional military personnel shall be selected for education or professional development programmes.
- (2) Professional military personnel sent for education or professional development shall be released from duty if the education or development period lasts more than one year.
- (3) Professional military personnel sent for education or professional development for the purpose of changing military occupational specialty shall be released from duty regardless of the duration of education or professional development.
- (4) Time spent in education or development by professional military personnel shall be included in their time in service, with all benefits of the individual rank and post from which they were sent for education or

professional development, and they shall be promoted in accordance with the requirements set forth in this Law.

(5) Conditions, procedure and competencies for selecting and sending professional military personnel for education or professional development shall be set forth in a regulation rendered by the Minister of Defence.

**Article 140  
(Scholarships)**

(1) The Ministry of Defence may grant scholarships to students of faculties and secondary schools (hereinafter: "military scholarship holders") in order to fill posts or enrol cadets in military educational institutions.

(2) Professional military personnel may be sent to faculties and other schools in country and abroad, in order to fill military posts in the Armed Forces.

(3) Conditions and the manner of granting scholarships to military scholarship holders shall be defined by the Minister of Defence.

**Article 141  
(Obligations)**

(1) Upon graduation, cadets, professional military personnel and military scholarship holders who attended schools in order to fill military posts, shall be assigned to appropriate positions.

(2) Military scholarship holders from paragraph (1) of this Article may perform their duties in their civilian capacity if the scholarship agreement stipulates so.

(3) Military scholarship holders from paragraph (1) of this Article who are personally responsible for not completing their education, or who do not enter military service upon graduation, shall be obliged to compensate the Ministry of Defence for the education expenses.

(4) The Minister of Defence shall define the amount of education expenses.

**Article 142  
(Period of Military Service After Schooling)**

(1) Cadets and military scholarship holders graduating from secondary schools and faculties shall be obliged to undertake service for a period of time that shall be twice as long as the period of education or scholarship, unless otherwise stipulated by the contract.

(2) Professional military personnel sent for education and professional development shall be obliged to undertake military service for a period of time that shall be twice as long as the period of education and professional development, unless otherwise stipulated by the contract.

(3) As an exception to paragraph (1) of this Article, cadets graduating from air force schools as pilots shall be obliged to undertake military service for a period of 10 years after graduation, unless a longer period of time is stipulated by the contract.

**Article 143  
(Sick Leave)**

(1) When prevented from performing their duties due to health reasons, professional military personnel shall be on sick leave.

(2) Professional military personnel, who are unable to perform their duties due to illness, shall be released from duty if an authorised medical commission decides that the sick leave could last more than six months.

(3) In cases described in paragraph (1) of this Article, professional military personnel shall retain the rights accorded to their rank, and the right to promotion based on the requirements set forth in this Law.

**Article 144  
(Redundancy Leave)**

(1) Redundancy leave occurs exclusively as a consequence of reorganisation or decrease of workload and cancellation of formation posts.

(2) A professional military person declared as redundant may be:

- a) Reassigned to a new duty,
  - b) If such reassignment is not possible, a professional military person shall be offered an early retirement pursuant to Article 46 of this Law or a separate law,
  - c) If an early retirement is not possible, a redundant professional military person shall be discharged from duty and sent on 'redundancy leave' for a period of six months.
- (3) A discharged professional military person with more than six years of employment shall be entitled to one additional month of redundancy leave for each additional year of employment, but no more than 12 months.
- (4) While on redundancy leave, a professional military person shall be entitled to a salary equivalent to the salary for the last month of his active duty.
- (5) Upon the expiration of the redundancy leave from paragraph (3) of this Article, the service of the professional military person shall be terminated.
- (6) Personnel referred to in paragraph (5) of this Article shall be entitled to a severance pay in the amount equal to six monthly salaries.

**Article 145**  
**(Suspension From Duty or Service)**

- (1) Professional military personnel shall be suspended from duty:
- a) During detention,
  - b) During incarceration of up to 6 months,
  - c) If caught in committing a criminal offence or disciplinary infraction related to the service,
  - d) For the duration of disciplinary or criminal proceedings, if their retention in service would be detrimental to the interests of service.
- (2) When reasons for suspension from duty cease to exist, an authorised superior shall be responsible to decide on further status of such military personnel.
- (3) An appeal may be filed against the decision on suspension from duty with the superior of the superior who issued the decision, no later than eight days from the day the decision was received.
- (4) An appeal shall not postpone the enforcement of the decision.
- (5) The period of suspension from duty shall not be included in the time necessary for promotion, unless it is established that the removal was ungrounded in the first place.
- (6) Suspension from duty shall be documented in writing, a copy of which will be placed in the personal files and performance files of professional military personnel.

**Article 146**  
**(Temporary Assignment)**

- (1) Due to service requirements, professional military personnel may be temporarily sent to serve in other headquarters, commands, units or institutions of the Armed Forces and the Ministry of Defence, at the same or another service location.
- (2) A temporary assignment described in paragraph (1) of this Article shall not exceed one year within a contractual period.

**Article 147**  
**(Reassignment)**

- (1) During service, professional military personnel may be reassigned due to service requirements.
- (2) Procedures for the reassignment of professional military personnel shall be set forth in a regulation rendered by the Minister of Defence.
- (3) Reassignment referred to in paragraph (1) of this Article shall be considered as change of service location due to appointment to a new post if a change of residence is required.
- (4) Reassignment shall be done for following reasons:

- a) Service requirements,
- b) Replacement of professional military personnel leaving the service or retiring,
- c) Professional development requirements of professional military personnel,
- d) A normal rotation based on changes in command,
- e) Promotion,
- f) Personal request.

**Article 148**  
**(Competencies for Reassignments)**

- (1) The Presidency shall reassign General Officers based on the proposal of the Minister of Defence.
- (2) The Minister of Defence shall reassign professional military personnel.

**Article 149**  
**(Right to Express Opinion)**

Prior to issuing an order for reassignment and appointment, professional military personnel shall have the possibility to express their opinion on the reassignment.

**Article 150**  
**(Period of Performance of Command Duties)**

- (1) Professional military personnel shall perform the same command duties, up to the level of brigade commander or equivalent, for no more than four years.
- (2) Exceptionally, due to service requirements, duties referred to in paragraph (1) of this Article may be performed for a maximum of six years.

**Article 151**  
**(Reassignment for Medical Reasons)**

Professional military personnel may be reassigned for medical reasons:

- a) An authorised medical commission finds that remaining in the place of service would be harmful due to the nature of illness of a professional military person or a member of the immediate family,
- b) There is no appropriate post in the duty station,
- c) A professional military person accepts assignment to a lower post.

**Article 152**  
**(Deployment to Other Institutions or Legal Entities)**

- (1) Based on service requirements, professional military personnel may be deployed or sent to other state administration bodies, institutions, agencies or legal entities.
- (2) The rights and duties of professional military personnel from paragraph (1) shall be regulated by this Law, laws regulating the work of the bodies from paragraph (1), regulations, and orders issued by the Minister of Defence.
- (3) Professional military personnel from paragraph (1) of this Article shall be entitled to all rights and duties of professional military personnel unless otherwise prescribed by the law.

**Article 153**  
**(Change of Branch or Service)**

- (1) The branch or service in which a professional NCO or officer serves may be changed. The change of branch or service may be conducted on the basis of personal request or service requirements.
- (2) A person from paragraph (1) of this Article may have his branch or service changed on the basis of personal request, if he has necessary qualifications, and if manning requirements permit. A person from paragraph (1) of this Article shall have his branch or service changed on the basis of requirements of the Armed Forces if the formation post in which he serves or is appointed to is cancelled, or if there is a need to fill

vacancies in another branch or service, provided that the person has the necessary educational qualifications and gives his consent to the change of branch or service.

(3) The decision on the change of branch or service for personnel referred to in paragraph (1) of this Article shall be rendered by the Minister of Defence.

## CHAPTER XVI - RANKS AND INSIGNIA OF THE ARMED FORCES

### Article 154 (Grades of Rank)

(1) Grades of rank for General Officers, Officers, NCOs, and soldiers in the Armed Forces are as follows:

a) General Officers ranks:

(1) **Grade of rank:** Lieutenant General (General pukovnik)

**NATO Grade:** OF-8

**Title of address:** General

**Abbreviation:** LTG (Gen. puk.)

(2) **Grade of rank:** Major General (General major)

**NATO Grade:** OF-7

**Title of address:** General

**Abbreviation:** MG (Gen. maj.)

(3) **Grade of rank:** Brigadier General (Brigadni general)

**NATO Grade:** OF-6

**Title of address:** General

**Abbreviation:** BG (Brig. Gen)

b) Officers ranks:

(1) **Grade of rank:** Brigadier (Brigadir)

**NATO Grade:** OF-5

**Title of address:** Brigadier

**Abbreviation:** BRIG (Brig.)

(2) **Grade of rank:** Colonel (Pukovnik)

**NATO Grade:** OF-4

**Title of address:** Colonel

**Abbreviation:** COL (Puk.)

(3) **Grade of rank:** Major (Major)

**NATO Grade:** OF-3

**Title of address:** Major

**Abbreviation:** MAJ (Maj.)

(4) **Grade of rank:** Captain (Kapetan)

**NATO Grade:** OF-2

**Title of address:** Captain

**Abbreviation:** CPT (Kap.)

(5) **Grade of rank:** Senior Lieutenant (Poručnik)

**NATO Grade:** OF-1

**Title of address:** Lieutenant

**Abbreviation:** SLT (Por.)

(6) **Grade of rank:** Lieutenant (Potporučnik)

**NATO Grade:** OF-1

**Title of address:** Lieutenant

**Abbreviations:** LT (P. por)

c) NCO Grades:

(1) **Grade of rank:** Sergeant Major (Zastavnik I klase)

**NATO Grade:** OR-9

**Title of address:** Sergeant

**Abbreviation:** SGM (Zast. I kl.)

(2) **Grade of rank:** Master Sergeant (Zastavnik)

**NATO Grade:** OR-8

**Title of address:** Sergeant

**Abbreviation:** MSG (Zast.)

(3) **Grade of rank:** Sergeant First Class (Stariji vodnik I klase)

**NATO Grade:** OR-7

**Title of address:** Sergeant

**Abbreviation:** SFC (St. Vod. I kl.)

(4) **Grade of rank:** Staff Sergeant (Stariji vodnik)

**NATO Grade:** OR-6

**Title of address:** Sergeant

**Abbreviation:** SSG (Št. narvod.)

(5) **Grade of rank:** Sergeant (Vodnik)

**NATO Grade:** OR-5

**Title of address:** Sergeant

**Abbreviation:** SGT (Vod.)

d) Enlisted Grades:

(1) **Grade of rank:** Corporal (Kaplar)

**NATO Grade:** OR-3/4

**Title of address:** Corporal

**Abbreviation:** CPL (Kpl.)

(2) **Grade of rank:** Private First Class (Vojnik prve klase)

**NATO Grade:** OR-2

**Title of address:** Private

**Abbreviation:** PFC (Voj. I kl.)

(3) **Grade of rank:** Private (Vojnik)

**NATO Grade:** OR-1

**Title of address:** Private

**Abbreviation:** PVT (Voj.)

#### **Article 155 (Rank Insignia)**

(1) The General Officers insignia shall consist of the coat of arms of Bosnia and Herzegovina with swords surrounded with gold oak leaves and 7-point gold stars on an epaulet with gold stripe border.

(2) Officers rank insignia (OF-1 – OF-2) shall consist of silver stripes at the beginning of the epaulet (on the shoulder) and silver stars as follows:

(a) Lieutenant (OF-1) – 1 star

(b) Senior Lieutenant (OF-1) - 2 stars

(c) Captain (OF-2) – 3 stars

(3) Officers rank insignia (OF-3 – OF-5) consist of swords at the beginning of the epaulet with a silver stripe border and silver stars as follows:

(a) Major (OF-3) – 1 star

(b) Colonel (OF-4) - 2 stars

(c) Brigadier (OF-5) – 3 stars

(4) NCO rank insignia (OR-5 – OR-9) shall consist of a “chevron” symbol and a yellow stripe at the beginning of the epaulet as follows:

(a) Sergeant (OR-5) – 1 narrow stripe

(b) Staff Sergeant (OR-5) - 2 narrow stripes

(c) Sergeant I Class (OR-6) – 3 narrow stripes

(d) Master Sergeant (OR-8) – 1 wide stripe and 1 narrow stripe

(e) Sergeant Major (OR-9) - 1 wide stripe and 2 narrow stripes

#### **Article 156 (Field Uniforms)**

All field uniforms of the Armed Forces shall be from the same or similar material with the same camouflage pattern.

#### **Article 157 (Insignia)**

(1) Insignia are to be worn on the hat/beret, right shoulder and where authorised on the left shoulder of the uniform of all members of the Armed Forces.

(2) For all except general officers the hat/beret shall bear the badge of the land forces or air force and air defence of the Armed Forces. For general officers the hat/beret shall bear the badge of the coat of arms of BiH with swords and gold laurel.

(3) All members of the Armed Forces shall wear the flag of BiH on the right shoulder.

(4) Members of Infantry Regiments shall wear insignia representing their regiment on their left shoulder.

(5) Additional brigade, or other institution or unit insignia, if so approved by the Minister of Defence, shall be worn below the infantry regimental insignia on the left shoulder.

- (6) Members of all other regiments, institutions, or units shall wear brigade, or other institution or unit insignia, if so approved by the Minister of Defence, on the left shoulder.
- (7) For all except general officers, up to two insignia may be worn on the left shoulder.
- (8) General officers commanding brigades or institutions shall wear the brigade or institution insignia on the left shoulder. General officers shall not wear any other insignia on the left shoulder.

## **CHAPTER XVII – DISCIPLINARY RESPONSIBILITY**

### **Article 158**

#### **(Violation of Military Discipline and Disciplinary Responsibility)**

- (1) Any behaviour contrary to the provisions of Article 31, paragraph (1) of this Law shall be considered a violation of military discipline.
- (2) A violation of military discipline may be minor or major.
- (3) Minor violations of military discipline are qualified as disciplinary faults. Major violations of military discipline are qualified as disciplinary offences.
- (4) All professional military personnel shall be responsible for violations of military discipline, as well as reserve personnel and cadets of military schools, if they violate military discipline with premeditation or out of negligence either on duty or off duty.
- (5) Professional military personnel, reserve personnel and military school cadets shall be responsible for violations of military discipline during their service in the Armed Forces.

### **Article 159**

#### **(Disciplinary Faults)**

Disciplinary faults are the following:

- a) Untimely or incomplete execution of commands, decisions or orders from a superior,
- b) Being frequently late for service or duty, or leaving from the service or duty too early,
- c) Unjustified absence from service or duty in duration of one day,
- d) Failure to inform the superior of being prevented to report to service or duty within 24 hours,
- e) Violation of regulations on military uniform, military appearance, and personal hygiene,
- f) Improper treatment of co-workers, subordinates and superiors,
- g) Violation of regulations on salutes, address, introduction and reporting,
- h) Consummation of alcohol during service performance or while on duty,
- i) Sleeping on duty,
- j) Hiding or failure to report perpetrators of disciplinary faults,
- k) Other types of conduct in contradiction with defence regulations, which do not cause damage to the property of Bosnia and Herzegovina or other public and legal entities.

### **Article 160**

#### **(Disciplinary Offences)**

Disciplinary offences are the following:

- a) Failure to or refusal to execute a command, decision or order issued by a superior,
- b) Unauthorised leave from the formation or institution,
- c) Arbitrary performance of service or duty,
- d) Unconscientiously or negligent performance of service,
- e) Abuse of position or exceeding of official powers,

- f) Use of force or firearms in contradiction of this Law and regulations rendered on the basis of this Law,
- g) Violation of guard service regulations,
- h) Reporting to service or duty under the influence of alcohol or narcotics or drugs, or being under influence during service performance or time spent on duty,
- i) Unauthorised use of resources allocated or assigned for the purpose of task or duty performance,
- j) Causing damage to military property or other property related to service performance,
- k) Failure to take measures, or taking inadequate measures within one's duties required for the protection of systems, assets, personnel or allocated or assigned items,
- l) Withholding facts from authorized military personnel with regard to the manner of the execution of an official action or use of force,
- m) Violation of regulations on secret or confidential data or information,
- n) Unjustified absence from service or duty for more than one day,
- o) Abuse of sick leave,
- p) Forging reports or submitting false reports,
- q) Forging, destroying or hiding official documents, books, or items,
- r) Failure to take prescribed, directed, ordered or other measures required for the preservation of people's lives and health, or for the preservation of systems, facilities, technology, and means of labour.
- s) Any conduct that is offensive to the dignity of the subordinates or junior personnel, or discriminatory on the basis of sex, race, colour, faith or ethnicity, and notably sexual abuse or harassment, or any other action that violates the rights accorded to them by regulations,
- t) Inappropriate behaviour detrimental to the reputation of the Ministry of Defence or the Armed Forces, especially causing public disturbance through indecent behaviour or fighting in a public place, or any other kind of behaviour that causes public disturbance, regardless of the time and venue,
- u) Prevention, evasion or postponing of an internal proceeding against one's self,
- v) Covering or failure to report a perpetrator of a disciplinary offence,
- w) Engagement in activities contrary to provisions of this Law and the Law on Defence, or without the prior approval from the Minister of Defence,
- x) A violation of the regulations on political engagement or trade/labour union organisation in the Armed Forces,
- y) Repeating disciplinary faults by committing at least two disciplinary faults in one calendar year,
- z) Commission of a criminal offence or existence of a justified suspicion that a criminal offence has been committed,
- aa) Other actions in contradiction to defence regulations, which cause property damage to Bosnia and Herzegovina or other public and legal entities.

**Article 161**  
**(Disciplinary Sanctions)**

- (1) For violations of military discipline, perpetrators shall receive the following disciplinary sanctions:
  - a) Disciplinary measures,
  - b) Disciplinary punishments.
- (2) Disciplinary measures shall be pronounced for disciplinary faults, and disciplinary punishments shall be pronounced for disciplinary offences.
- (3) Exceptionally from the provision in paragraph (2) of this Article, disciplinary measures shall be pronounced for disciplinary offences committed by cadets and reserve soldiers.

(4) When there are one or more violations of military discipline discussed at the same time, only one disciplinary measure or punishment shall be pronounced.

#### **Article 162**

##### **(Selection of Type and Measure of Disciplinary Sanction)**

(1) When the type and measure of disciplinary sanction are decided upon, the following shall be taken in consideration: the type of the violation of military discipline, the consequences of the violation of military discipline, the degree of guilt of the subject of the proceeding, the motives for the violation of military discipline, the circumstances under which the military discipline was violated, previous service and behaviour of the subject of the proceeding, the nature of the subject's service and duty, the subject's relationship with the party in damage, compensation of damage caused by the violation of military discipline, as well as other alleviating or aggravating circumstances.

(2) At least once a year, the Chief of the Joint Staff of the Armed Forces of Bosnia and Herzegovina shall propose to the Minister of Defence the rendering of binding instructions for establishing a common disciplinary policy for the conduct of disciplinary proceedings.

#### **Article 163**

##### **(Disciplinary Measures)**

(1) Disciplinary measures are:

- a) Warning,
- b) Reprimand,
- c) Irregular duty of up to three successive shifts,
- d) Confinement to the barracks of up to 10 days,
- e) Salary reduction of 5% to 20% for a period of up to three months,
- f) Military detention of up to 15 days.

(2) The disciplinary measure of irregular duty from paragraph (1), item c) of this Article, may only be pronounced to cadets and reserve soldiers.

(3) Disciplinary measures of confinement to barracks from paragraph (1), item d), and military detention from paragraph 1, item f) of this Article, may only be pronounced to cadets, reserve soldiers and professional soldiers.

(4) The disciplinary measure of salary reduction from paragraph (1), item e) of this Article, may not be pronounced to cadets or reserve personnel.

#### **Article 164**

##### **(Disciplinary Punishments)**

(1) Disciplinary punishments are the following:

- a) A ban on progression in service and promotion between one and four years in duration,
- b) A salary reduction of 21% to 33% for a period of up to 12 months,
- c) Military detention of up to 30 days,
- d) Transfer to the next lower rank,
- e) Loss of rank,
- f) Removal from duty and assignment to a formation post of the next lower rank for a period of one to three years,
- g) Removal from a command or leader position and the ban on appointment to such positions for a period of one to five years,
- h) Termination of professional service.

(2) The disciplinary punishment of ban on progression in service and promotion from paragraph (1), item a) of this Article, may only be pronounced to professional military personnel, reserve officers and NCO's.

(3) Disciplinary punishments of salary reduction, from paragraph (1), item b), and military detention, from paragraph (1), item c) of this Article, may only be pronounced to professional military personnel.

(4) Disciplinary punishment of transfer to the next lower rank from paragraph (1), item d), and loss of rank from paragraph (1), item e) of this Article, may only be pronounced to military personnel.

(5) The disciplinary punishment of removal from duty and assignment to an establishment post of the next lower rank from paragraph (1), item f) of this Article, may be pronounced to all personnel serving in the Armed Forces, except that an officer cannot be assigned to an NCO establishment post, and an NCO to a soldier's establishment post.

(6) The disciplinary punishment of removal from a command or leader position and the ban on appointment to such a duty from paragraph (1), item g) of this Article, may be pronounced to all personnel serving in the Armed Forces assigned to command or leader positions.

(7) The disciplinary punishment of termination of professional service from paragraph (1), item h) of this Article may be pronounced to professional military personnel.

#### **Article 165**

##### **(Statute of Limitations on Instituting and Conducting Disciplinary Proceedings)**

(1) The statute of limitations on disciplinary proceedings for disciplinary faults shall expire three months after the superior person at the position of a company commander, or equal or higher position, becomes aware of the violation or the identity of the violator, and no later than six months from the day the violation occurred, and the proceeding must be completed within six months of the day of the institution of the proceeding.

(2) The statute of limitations on disciplinary proceedings for disciplinary offences shall expire 12 months after the superior person at the position of a brigade commander, or equal or higher position, becomes aware of the disciplinary offence, and no later than two years from the day the violation occurred, and the proceeding must be completed within two years of the day of the institution of the proceeding.

(3) The statute of limitations on disciplinary proceedings for disciplinary offences with elements of criminal offence, due to which a proceeding is underway before a relevant prosecutor or court, or the criminal proceeding has already resulted in a valid guilty verdict, shall expire at the same time as the statute of limitations for prosecuting that criminal offence.

#### **Article 166**

##### **(Statute of Limitations on Imposition of Disciplinary Sanction)**

(1) The statute of limitations on the imposition of a disciplinary measure shall expire two months after the effective date of the decision on disciplinary measure, and the statute of limitation on the imposition of a disciplinary punishment shall expire four months from the effective date of the decision on disciplinary punishment.

(2) Exceptionally from the provision in paragraph (1) of this Article, the statute of limitations on the imposition of the disciplinary punishment of termination of professional service shall expire six months after the effective date of the decision on punishment.

(3) The statute of limitations on the imposition of a disciplinary measure shall be terminated by any act towards imposition of punishment.

(4) The statute of limitations on the imposition of a disciplinary punishment shall, in any case, expire after a period of time twice as long as the time prescribed in paragraphs (1) and (2) of this Article.

#### **Article 167**

##### **(Pardon for Military Disciplinary Sanctions)**

(1) A pardon for a military disciplinary sanction pronounced to professional military personnel, reserve personnel or military school cadets may be granted by the Minister of Defence with the approval of the Presidency.

(2) A pardon may include full or partial excuse from the imposition of a disciplinary sanction, or the pronounced disciplinary sanction may be replaced with a milder disciplinary sanction.

(3) A pardon may be granted only upon request for pardon.

(4) A pardon shall not affect the rights of third persons.

(5) The Presidency shall inform the Parliamentary Assembly of Bosnia and Herzegovina on the pardons of military disciplinary sanctions approved in the previous calendar year by 31 March each year.

#### **Article 168**

##### **(Deletion from Military Disciplinary Record)**

(1) A disciplinary measure shall be deleted from the military disciplinary record two years from the day when the disciplinary measure was imposed, under the condition that the person has not committed another violation of military discipline in one year after the imposition of the disciplinary measure.

(2) A disciplinary punishment shall be deleted from the military disciplinary record four years from the day when the disciplinary punishment was imposed, under the condition that the person has not committed another violation of military discipline in two years after the imposition of the disciplinary punishment.

(3) The deletion from the military disciplinary record is done *ex officio*.

#### **Article 169**

##### **(Basic Provisions on Disciplinary Proceedings)**

(1) Military disciplinary proceedings shall be conducted in accordance with the provisions of this Law and regulations from Article 32, paragraph (3) of this Law.

(2) Any person can file a disciplinary report with regard to a violation of military discipline. Relevant bodies may institute disciplinary proceedings *ex officio*.

(3) Disciplinary proceedings must be fair and transparent. A person who is the subject of a disciplinary proceeding shall have the following basic rights:

a) The right to be informed in a timely manner on the allegations made with regard to the violation of military discipline and evidence supporting those allegations, and the right to submit a written reply to the allegations, or to have his oral statement recorded,

b) The right to fair and public hearing within a reasonable period of time,

c) The right not to incriminate himself, to attend all the hearings, and the right to defence from all the allegations with the assistance of a defence counsel of his own choice,

d) The right to a public pronouncement of the decision,

e) The right to appeal against the decision.

(4) Exceptionally from paragraph (1), item b) of this Article, the public may be completely or partially excluded from hearings due to service or duty interests, public order and state security of democratic society, or if that is in the interest of a minor person or protection of privacy. The public may also be excluded to a necessary degree in the circumstances where the presence of the public would be an obstruction of justice in the opinion of the body conducting the disciplinary proceeding.

(5) The defence counsel from paragraph (3), item c) of this Article may be any person serving in the Armed Forces, but defence counsels from outside the service may only be attorneys or pre-bar trainees.

#### **Article 170**

##### **(Competence for Disciplinary Proceedings)**

(1) Warning, reprimand, irregular duty of up to three shifts, and confinement to barracks of up to five days shall be pronounced by a superior at the level of platoon leader, or equal or higher level.

(2) Other disciplinary measures shall be pronounced by:

a) Company commander – confinement to barracks of up to 10 days, and military detention of up to three days,

b) Battalion commander and independent company commander - confinement to barracks of up to 10 days and military detention of up to 10 days,

c) Brigade commander, independent battalion commander and equal or higher level commander - confinement to barracks of up to 10 days and military detention of up to 15 days, and salary reduction of 5 to 20% for a period of three months.

(3) Competent superiors shall discuss and decide on disciplinary responsibility for disciplinary faults, and they shall pronounce disciplinary measures.

- (2) Disciplinary military committees shall discuss and decide on the disciplinary responsibility for disciplinary offences, and they shall pronounce disciplinary punishments.

**Article 171**  
**(Disciplinary Military Committees)**

- (1) Disciplinary military committees shall be formed in the Armed Forces to discuss and decide on disciplinary offences of military personnel in the first and second instances.
- (2) First-instance disciplinary military committees shall be appointed by the brigade commander or a commander of the same or higher level and they shall consist of three members, of which one shall be the president of the committee.
- (3) Second-instance disciplinary military committees shall decide on appeals against decisions rendered by first-instance disciplinary military committees, they shall be appointed by the Minister of Defence and consist of three members, of which one shall be the president of the committee.

**CHAPTER XVIII – TERMINATION OF MILITARY SERVICE**

**Article 172**  
**(Termination of Military Service)**

- (1) The service of professional military personnel shall be terminated:
- a) Upon the expiration of the service contract, unless the contract is extended,
  - b) Due to permanent medical disqualification for military service,
  - c) Due to limited fitness, when professional military personnel do not accept transfer caused by the changed fitness,
  - d) After the expiration of the redundancy leave pursuant to Article 144 of this Law,
  - e) If they are absent from duty without justification for five consecutive days or seven non-consecutive days over a year,
  - f) If their final evaluation rating is "Bad",
  - g) If they receive three consecutive evaluation ratings "improvement needed",
  - h) Due to loss of rank as a disciplinary punishment,
  - i) Due to termination of service as a disciplinary punishment,
  - j) If they have been effectively sentenced to a term of imprisonment of over six months,
  - k) By mutual agreement,
  - l) Upon personal request,
  - m) If, at the time of induction, professional military personnel withheld information about the existence of an impediment to induction,
  - n) When they meet the criteria for retirement,
  - o) In case of death.
- (2) The Minister of Defence shall render regulations establishing procedures for the termination of service of professional military personnel.

**Article 173**  
**(Medical Fitness)**

- (1) Assessment of medical fitness for military service shall be determined by an authorized medical commission at the request of professional military personnel or upon request of a commanding officer at the level of independent battalion or higher.
- (2) In the event that professional military personnel stay on uninterrupted sick leave for six months, or are cumulatively absent for 12 months over previous two years, the authorized commander from paragraph (1) of this Article shall send such personnel for evaluation of their medical fitness for military service by an authorized medical commission.

**Article 174**  
**(Procedure for Termination of Service)**

(1) A proposal for termination of service of professional military personnel shall be submitted by the superior officer in charge to the Minister of Defence within eight days of the occurrence of reasons for termination of service.

(2) The Minister of Defence shall issue an order for termination of service within 30 days of receipt of a well-founded proposal for termination.

(3) An order for termination of service at the personal request of professional military personnel shall be issued within 30 days from the submission of a written request.

(4) Professional military personnel shall be released from duty no later than seven days after the order for termination of service becomes final.

**Article 175**  
**(Honourable and Dishonourable Discharge)**

(1) The decision on termination of service shall specify whether professional military personnel are discharged "honourably" or "dishonourably".

(2) A "dishonourable discharge" shall be given to professional military personnel due to:

- a) Unjustified absence from work,
- b) "Bad" evaluation rate, or three consecutive "improvement needed" rates
- c) Rejection of reassignment or redeployment,
- d) Disciplinary responsibility pursuant to the rules of military discipline
- e) An effective prison sentence of over six months for a criminal offence.
- f) Withholding facts when inducted to service, which would have affected the decision on induction.

(3) In all other cases of termination of service, professional military personnel shall receive "honourable discharge".

**Article 176**  
**(Consequences of Honourable and Dishonourable Discharge)**

(1) Professional military personnel who receive honourable discharge from military service shall retain their right to be addressed by their military rank as well as the right to wear a military uniform on ceremonial occasions.

(2) A dishonourable discharge shall result in the revocation of all rights and privileges, which the professional military personnel would normally have after the termination of professional service in the military, such as:

- a) The right to readmission into professional military service,
- b) The right to wear the military uniform on ceremonial occasions,
- c) The right to be addressed by their military rank.

**Article 177**  
**(Termination of Reserve Obligation)**

(1) The service of reserve personnel shall be terminated:

- a) Upon personal request
- b) Due to permanent medical disqualification for military service,
- c) Due to reduced fitness for work, if there is no possibility for reassignment,
- d) If their final evaluation rating is "Bad",
- e) If they receive three consecutive evaluation ratings "improvement needed"

- f) Due to loss of rank as a disciplinary punishment,
- g) Due to termination of service as a disciplinary punishment,
- h) Due to an effective prison sentence of over six months,
- i) By mutual agreement,
- j) At the expiration of service contract, if the contract is not extended,
- k) If, at the time of induction, a member of the reserves withheld information about an impediment to induction,
- l) In case of death.

(2) The Minister of Defence shall render regulations establishing procedures for termination of service of reserve personnel.

## **CHAPTER XIX – MISCELLANEOUS PROVISIONS**

### **Article 178 (Nature of Orders)**

(1) Decisions on promotion, reassignment and appointment of officers and NCOs shall not require a justification. Justifications shall be provided only if a request for regular promotion is rejected.

(2) An appeal by professional military personnel against a decision on appointment, reassignment, or suspension from duty shall not postpone the execution of the decision.

(3) Administrative proceedings cannot be initiated against decisions related to reassignment, promotion, appointment and termination of service of professional military personnel.

### **Article 179 (Legal Acts)**

Documents related to service of professional military personnel in the Armed Forces, which contain secret information, shall be disclosed to the personnel after they acknowledge receipt by signature. The date of signing shall be considered as the date of delivery.

### **Article 180 (Competencies)**

(1) Unless a law or regulation passed on the basis of this Law assigns that competency to another body, the commander of an independent battalion or equivalent or higher level shall have the competency to decide in first-instance administrative procedures.

(2) In case of an appeal against a first-instance decision from paragraph (1) of this Article, the immediate supervisor of the officer who made the first-instance decision shall decide on the appeal.

### **Article 181 (Administrative Procedures)**

(1) The decision in an administrative procedure shall be made by the commander of the unit in which the person whose rights or obligations are subject of the decision serves.

(2) In making decisions related to the rights and obligations of the commander from paragraph (1) of this Article, or if, pursuant to the law, that commander needs to be excluded from decision making process for other reasons, his immediate commander shall be responsible for making decision.

### **Article 182 (Additional Regulations)**

The Minister of Defence shall, by a special regulation, set forth the competencies of senior officers for adopting administrative and other acts, in accordance with the Law on Defence and this Law.

## **CHAPTER XX – TRANSITIONAL AND FINAL PROVISIONS**

**Article 183  
(Takeover)**

(1) Personnel in service in the entity armies shall become personnel in service in the Armed Forces in the same rank and position they held on 31 December 2005.

(2) Within one year of this Law's entry into force, the Minister of Defence shall conclude contracts with the personnel from paragraph (1) of this Article in accordance with the procedure described in Chapter XII of this Law.

**Article 184  
(Status Rights)**

(1) All rights and obligations acquired in accordance with regulations that were in force until the day of entry into force of this Law shall remain in force until the service status is resolved pursuant to this Law.

(2) Officers who do not meet educational requirements pursuant to this Law shall obtain the educational qualifications prescribed in this Law within four years from the day this Law enters into force.

(3) NCO's who do not meet educational requirements pursuant to this Law shall obtain the educational qualifications prescribed in this Law within two years from the day this Law enters into force.

(4) Personnel from paragraphs (2) and (3) shall submit proof that they are studying in accordance with the year-by-year system.

**Article 185  
(Harmonization of Ranks)**

(1) All professional military personnel shall assume NATO grades of rank on 1 January 2006 in the manner established in Article 154 of this Law.

(2) In the event that the previous rank does not have its equivalent in NATO grades of rank, the following shall apply:

a) Personnel who have served two thirds or more of time in their current rank on 31 December 2005, shall meet the criteria for promotion in the next higher rank,

b) Personnel who have served less than two thirds of time in their current rank on 31 December 2005 shall be assigned the next lower rank, but the time spent in their current rank shall be taken in consideration for promotion to the next higher rank.

(3) No personnel member shall receive a smaller salary due to an assignment described in paragraph (2), item b) of this Article.

**Article 186  
(Issuing of Regulations)**

The competent bodies shall issue regulations within their competencies and pursuant to this Law within six months from the day this Law enters into force.

**Article 187  
(Application of Regulations)**

Unless they are in contradiction with this Law, regulations that have been in force until the day this Law enters into force shall continue to apply until the adoption of new regulations.

**Article 188  
(Ban on Admission into Service)**

From the day this Law enters into force to the day of transfer of personnel currently in service in the entity armies pursuant to Article 183 of this Law, the Ministry of Defence, Ministry of Defence of Republika Srpska and Federation Ministry of Defence shall not admit new personnel in service, except for cadets and scholarship holders attending education at that time.

**Article 189  
(Entry into Force)**

This Law shall enter into force on the eighth day after it is published in the Official Gazette of Bosnia and Herzegovina, and it shall apply from 1 January 2006, unless otherwise prescribed by this Law.

## **4.4. Other Legislative Recommendations**

### **4.4.1. Entity Constitutional and Legal Amendments**

This section of the report offers an overview of legislative amendments needed at entity level in order to facilitate the state assumption of all competencies for defence. The assumption of these competencies and the removal of entity competencies for defence will require the repeal of the current entity laws on defence and laws on [army] service, amendment to entity laws on ministries, plus some minor entity constitutional amendments. A further process of harmonisation of existing entity legislation with the provisions of the Law on Defence and Law on Service in the Armed Forces of Bosnia and Herzegovina must be conducted to ensure consistency with the new provisions and arrangements for defence.

This section presents areas of law requiring amendment, repeal, or harmonisation. Legislative recommendations for entity constitutional amendments and the repeal of defence and [army] service laws, as well as amendments to laws on ministries follow in the next section of this report.

#### *Constitutional Amendments*

Amendments will be required to the entity constitutions to remove any competency for, or reference to defence. These amendments are contained in the next section of this report.

The amendments to the Constitution of Republika Srpska in 2003 did not entirely remove competencies and references to defence. Consequently, it is necessary to complete the removal of these competencies and references. The constitution would have to be amended in the following parts: the competencies of the republic; the competencies of the National Assembly of Republika Srpska; the competencies of the President of Republika Srpska; and, the chapter on defence.

The Constitution of the Federation of Bosnia and Herzegovina would not require much amendment. Amendments passed in 2003 removed almost all references to defence as a competency of the entity in their entirety. The remaining

reference to defence is contained as a competency of the Federation of Bosnia and Herzegovina to enter into military agreements.

### *Repeal of Entity Laws on Defence and [Army] Service*

The assumption of defence competencies by the state and their full inclusion in state-level legislation requires the repeal current entity defence legislation. Consequently, the Law on Defence and Law on the Army of Republika Srpska would need to be repealed by the National Assembly of Republika Srpska. Likewise, the Law on Defence and Law on Service of the Federation of Bosnia and Herzegovina would need to be repealed by that entity's parliamentary assembly.

### *Abolition of Entity Ministries of Defence*

To complete the abolition of the entity ministries of defence, it would be necessary to amend the entity laws on ministries to remove the ministries of defence from the composition of the government. Consequently, the Law on Ministries of Republika Srpska and Law on Ministries and other Bodies of Administration of the Federation of Bosnia and Herzegovina must be amended.

### *Harmonisation of other Laws*

The assumption of defence competencies by the state and the full and effective implementation of the Law on Defence and Law on Service in the Armed Forces of Bosnia and Herzegovina will require a process of harmonisation of entity legislation with these new state-level provisions. The Law on Defence, both in the 2003 version and this new version in Article 81, specifies that all entity laws and by-laws shall be brought into conformity with its provisions. A number of laws are affected by provisions of the new state-level legislation.

An initial examination of legislation potentially affected by the Law on Defence and Law on Service in the Armed Forces of Bosnia and Herzegovina has revealed that the following additional laws may require amendment.

In Republika Srpska it would be necessary to harmonise the Law on Civil Protection as the Ministry of Defence of Republika Srpska would no longer exist. Likewise, the Law on Pension and Disability Insurance may require amendment

to reflect provisions in the Law on Service in the Armed Forces of Bosnia and Herzegovina concerning pension provisions. Additionally, the Law on Local Self Government may require amendment to facilitate the transfer of military records.

In the Federation of Bosnia and Herzegovina the Law on Protection and Rescue of People and Property from Natural and Other Disasters would have to be harmonised as the entity ministry of defence would no longer exist. The Law on Pension and Disability Insurance may require amendment to reflect the Law on Service in the Armed Forces of Bosnia and Herzegovina concerning pension provisions. It may also be necessary to amend the Law on the Public Defender's Office to facilitate the abolition of the military defender and the transfer of outstanding litigation from the entity ministry of defence to the Public Defender's Office. Likewise, as in Republika Srpska, the Law on Local Self Government may require amendment to facilitate the transfer of military records.

The Defence Reform Commission, however, recognises that further analysis and amendments may be required. The Commission recognises that many of these areas are outside the scope and competency of its mandate and encourages further deliberations during and after the parliamentary phase of the adoption of these amendments. The Law on Defence of Bosnia and Herzegovina envisages this process and allows a period of six months in order to conduct the harmonisation of entity laws and by-laws with its provisions

#### **4.4.2. Legislative Recommendations**

##### **The Federation of Bosnia and Herzegovina**

###### **Amendments to the Constitution of the Federation of Bosnia and Herzegovina**

Amendments CVI, CVII, and CVIII passed by the FBiH Parliament during the session of the House of Representatives, held on \_\_\_\_\_ 2005 and session of the House of Peoples, held on \_\_\_\_\_ 2005 are hereby decreed.

### **AMENDMENTS CVI AND CVII TO THE CONSTITUTION OF FEDERATION OF BOS- NIA AND HERZEGOVINA**

**I**  
**AMENDMENT CVI**

Article III.1 a) is deleted.

**AMENDMENT CVII**

Article IV.A.7.20 (1)(i) is deleted.

**AMENDMENT CVIII**

Article IV.B.3.7 a) (I) is amended by the deletion of the following language: “officers in the Army”.

**II**

Amendments CVI, CVII, and CVIII to the Constitution of Federation of Bosnia and Herzegovina shall enter into force at midnight on 31 December 2005.

*Law on Cessation of the Law on Defence of the Federation of Bosnia and Herzegovina*

**LAW**  
**ON CESSATION OF THE LAW ON DEFENCE OF FEDERATION OF**  
**BOSNIA AND HERZEGOVINA**

**Article 1**

The Law on Defence of Federation of BiH (“Official Gazette of Federation of BiH” number 34/04) shall cease to exist on 1 January 2006.

**Article 2**

(1) Exceptionally to the provisions from Article 19, paragraph (4) and Article 32a of the Law on Civil Service in the BiH Institutions (Official Gazette of BiH 19/02, 35/03, 14/04, 17/04, 26/04 and 37/04) as from 1 January 2006 all civil servants in the FBiH Ministry of Defence shall become civil servants in the BiH Ministry of Defence, and the Law on Civil Service in the BiH Institutions shall apply to them in accordance the BiH Law on Defence.

(2) On 1 January 2006 employees from the FBiH Ministry of Defence shall become employees in the Ministry of Defence and the Law on Labour in the BiH Institutions (“Official Gazette of BiH” 26/04 and 7/05) shall apply to them.

(3) On the day set forth in paragraphs (1) and (2) of this Article, Book of Rules on Internal Organisation and Systematisation of the FBiH Ministry of Defence shall become integral part of the Book of Rules on Internal Organisation and Systematisation of the BiH Ministry of Defence in accordance with the BiH Law on Defence. Civil servants and employees from paragraphs (1) and (2) of this Article shall continue to perform their previous tasks and duties to the extent that is not in contravention with the BiH Law on Defence, until the final deci-

sion on their status in the BiH Ministry of Defence is made by the BiH Minister of Defence, in accordance with the BiH Law on Defence.

(4) Civil servants from paragraphs (1) and (2) of this Article shall retain their position, salary and allowance until the final decision on their status in the BiH Ministry of Defence is made by the BiH Minister of Defence, in accordance with the BiH Law on Defence.

(5) Civil servants and employees of the BiH Ministry of Defence who are dismissed from the duty due to redundancy according to the decision made by the BiH Minister of Defence, in accordance with the BiH Law on Defence, are entitled to receive severance payment in accordance with the BiH Law on Defence.

### **Article 3**

(1) As from 1 January 2006 the Commander of the Joint Command of the FBiH Army shall be directly subordinated to the Chief of the Joint Staff of the Armed Forces of Bosnia and Herzegovina until termination of Joint Command of the FBiH Army in accordance with the BiH Law on Defence.

(2) The Commander of the Joint Command of the FBiH Army shall have no operational command authorities.

### **Article 4**

The BiH Minister of Defence shall, in accordance with the BiH Law on Defence, no later than 1 January 2006 designate a person for the FBiH Ministry of Defence to perform those tasks and duties necessary for effective managing of the former FBiH Ministry of Defence until the end of transition process.

### **Article 5**

(1) The BiH Ministry of Defence and FBiH Ministry of Defence shall prepare lists of immovable and movable property, archive, files and other documents in accordance with the BiH Law on Defence.

(2) List of immovable property shall be submitted to the BiH Ministry of Defence within 60 days from the entry into force of the BiH Law on Defence. List of movable property, archives, files and other documents shall be submitted within 30 days from the entry into force of the BiH Law on Defence.

(3) The BiH Ministry of Defence shall in accordance with the BiH Law on Defence identify property to be further used for the needs of defence.

(4) Immovable property that is in accordance with the BiH Law on Defence identified as not needed for the needs of defence shall remain in the ownership of Federation of BiH.

(5) Movable property that is in accordance with the BiH Law on Defence identified as not needed for the needs of defence shall remain in the ownership of Federation of BiH and decision on disposal of the property shall be made by the Government of Federation of BiH.

## **Article 6**

(1) BiH Ministry of Defence and FBiH Ministry of Defence shall within 30 days from the day of the entry into force of the BiH Law on Defence, prepare a comprehensive list of other rights and duties of the FBiH Ministry of Defence and recommend the plan for transfer of other rights and duties to the BiH Ministry of Defence.

(2) Unless otherwise specified in the plan for transfer of other rights and duties from paragraph (1) of this Article in accordance with the BiH Law on Defence, the Government of Federation of BiH shall remain to be responsible for debts and other liabilities of the FBiH Ministry of Defence incurred until 1 January 2006.

## **Article 7**

In accordance with the Plan on final disposal of the property, to be approved by the BiH Council of Ministers, the Government of Federation of BiH shall together with the BiH Council of Ministers sign agreements, decisions and other relevant instruments required for termination of all rights and liabilities over movable and immovable property.

## **Article 8**

Budget and all other financial issues related to the FBiH Ministry of Defence and Army of Federation of BiH shall be resolved in accordance with the BiH Law on Defence.

## **Article 9**

(1) In accordance with the Law on Local Self-Government (Official Gazette of Federation of BiH number 6/95) and BiH Law on Defence records on personnel that fulfilled their military obligation in Federation of BiH shall be transferred to the municipalities in Federation of BiH.

(2) Within 60 days from the entry into force of this Law the Government of Federation of BiH shall issue a Decree to further regulate issues from paragraph (1) of this Article.

(3) During the transfer of records from paragraph (1) of this Article the Government of Federation of BiH shall take into consideration protection of personal data in accordance with the Law on Protection of Personal Data ("Official Gazette of BiH" 32/01).

## **Article 10**

All other issues related to the FBiH Ministry of Defence and Army of Federation of BiH shall be resolved in accordance with the BiH Law on Defence.

### **Article 11**

This Law shall enter into force eight days after its publication in the “Official Gazette of Federation of BiH”.

### *Law on Cessation of the Law on Service in the Army of the Federation of Bosnia and Herzegovina*

## **LAW ON CESSATION OF THE LAW ON SERVICE IN THE ARMY OF FED- ERATION OF BOSNIA AND HERZEGOVINA**

### **Article 1**

The Law on Service the Army of Federation of Bosnia and Herzegovina (“Official Gazette of Federation of BiH” number 34/04) shall cease to exist on 1 January 2006.

### **Article 2**

Personnel serving in the FBiH Army shall, in accordance with the BiH Law on Defence, become personnel serving in the Armed Forces of Bosnia and Herzegovina as of 1 January 2006 in the rank and position they hold on 31 December 2005.

### **Article 3**

All rights and duties in accordance with the regulations that were valid until entry into force of this Law shall remain effective until resolution of the status in service of personnel from Article 2 of this Law according to the BiH Law on Defence and Law on Service in the Armed Forces of Bosnia and Herzegovina.

### **Article 4**

This Law shall enter into force eight days after its publication in the “Official Gazette of Federation of BiH”.

### *Law on Amendments to the Law on Federation Ministries and other Bodies of Federation Administration*

The Law on Amendments to the Law on Federation Ministries and Other Bodies of Federation Administration passed by the Federation of BiH Parliament during the session of the House of Representatives, held on \_\_\_\_\_ 2005 and session of the House of Peoples, held on \_\_\_\_\_ 2005 is hereby decreed.

**LAW ON AMENDMENTS TO  
THE LAW ON FEDERATION MINISTRIES AND OTHER BODIES OF  
FEDERATION ADMINISTRATION**

The Law Federation Ministries and Other Bodies of Federation Administration ("Official Gazette of the Federation of BiH" 58/02 i 19/03) is amended as follows:

**Article 1**

Item 1 in Article 4, paragraph (1) is deleted.

**Article 2**

Article 5 is deleted.

**Article 3**

Article 22 is amended by the deletion of the following language; "developing and issuing defence plans."

**Article 4**

Article 23 is amended by the deletion of the following language; "geodetic and cartographic tasks of importance for defence."

**Article 5**

This Law shall enter into force eight days after its publication in the "Official Gazette of the Federation of BiH", and shall apply from 1 January 2006.

**Republika Srpska**

*Amendments to the Constitution of Republika Srpska*

**AMENDMENTS  
CXIV AND CXVIII TO THE CONSTITUTION OF REPUBLIKA  
SRPSKA**

These amendments are integral part of the Constitution of Republika Srpska which shall enter into force on the day of their issuing and shall apply from midnight on 31 December 2005.

**I**

**AMENDMENT CXIV (114)**

Item 2 of Article 68, replaced with Amendment XXXII and changed by Amendment CVI is amended by the deletion of the following language: "defence and".

**II**  
**AMENDMENT CXV (115)**

Item 1, paragraph 2 of Article 80, amended by Amendment XL, and changed by Amendment CVIII is amended by the deletion of the following language: “defence.”

Paragraph 2 of the same Article, amended by Amendment XL, and changed by Amendment CVIII is deleted.

**III**  
**AMENDMENT CXVI (116)**

Paragraph 2 of Article 104 is deleted.

**IV**  
**AMENDMENT CXVII (117)**

Article 105, changed by the Amendment CXI is deleted.

**V**  
**AMENDMENT CXVIII (118)**

Article 106, changed by the Amendment CXII is deleted.

*Law on Cessation of the Law on Defence of Republika Srpska*

**LAW**  
**ON CESSATION OF THE LAW ON DEFENCE OF REPUBLIKA**  
**SRPSKA**

**Article 1**

The Law on Defence of Republika Srpska (“Official Gazette of Republika Srpska” number 21/96, 46/01, 31/03, 33/04 and 40/04) shall cease to exist on 1 January 2006.

**Article 2**

(1) Exceptionally to the provisions from Article 19, paragraph (4) and Article 32a of the Law on Civil Service in the BiH Institutions (Official Gazette of BiH 19/02, 35/03, 14/04, 17/04, 26/04 and 37/04) as from 1 January 2006 all civil servants in the RS Ministry of Defence shall become civil servants in the BiH Ministry of Defence, and the Law on Civil Service in the BiH Institutions shall apply to them in accordance the BiH Law on Defence.

(2) On 1 January 2006 employees from the RS Ministry of Defence shall become employees in the Ministry of Defence and the Law on Labour in the BiH Institutions (“Official Gazette of BiH” 26/04 and 7/05) shall apply to them.

(3) On the day set forth in paragraphs (1) and (2) of this Article, Book of Rules on Internal Organisation and Systematisation of the RS Ministry of Defence shall become integral part of the Book of Rules on Internal Organisation and Systematisation of the BiH Ministry of Defence in accordance with the BiH Law on Defence. Civil servants and employees from paragraphs (1) and (2) of this

Article shall continue to perform their previous tasks and duties to the extent that is not in contravention with the BiH Law on Defence, until the final decision on their status in the BiH Ministry of Defence is made by the BiH Minister of Defence, in accordance with the BiH Law on Defence.

(4) Civil servants from paragraphs (1) and (2) of this Article shall retain their position, salary and allowance until the final decision on their status in the BiH Ministry of Defence is made by the BiH Minister of Defence, in accordance with the BiH Law on Defence.

(5) Civil servants and employees of the BiH Ministry of Defence who are dismissed from the duty due to redundancy according to the decision made by the BiH Minister of Defence, in accordance with the BiH Law on Defence, are entitled to receive severance payment in accordance with the BiH Law on Defence.

### **Article 3**

(1) As from 1 January 2006 the Chief of General Staff of the Army of Republika Srpska shall be directly subordinated to the Chief of the Joint Staff of the Armed Forces of Bosnia and Herzegovina until termination of the General Staff of the Army of Republika Srpska in accordance with the BiH Law on Defence.

(2) The Chief of General Staff of the Army of Republika Srpska shall have no operational command authorities.

### **Article 4**

The BiH Minister of Defence shall, in accordance with the BiH Law on Defence, no later than 1 January 2006 designate a person for the RS Ministry of Defence to perform those tasks and duties necessary for effective managing of the former RS Ministry of Defence until the end of transition process.

### **Article 5**

(1) The BiH Ministry of Defence and RS Ministry of Defence shall prepare lists of immovable and movable property, archive, files and other documents in accordance with the BiH Law on Defence.

(2) List of immovable property shall be submitted to the BiH Ministry of Defence within 60 days from the entry into force of the BiH Law on Defence. List of movable property, archives, files and other documents shall be submitted within 30 days from the entry into force of the BiH Law on Defence.

(3) The BiH Ministry of Defence shall in accordance with the BiH Law on Defence identify property to be further used for the needs of defence.

(4) Immovable property that is in accordance with the BiH Law on Defence identified as not needed for the needs of defence shall remain in the ownership of Republika Srpska.

(5) Movable property that is in accordance with the BiH Law on Defence identified as not needed for the needs of defence shall remain in the ownership of Republika Srpska and decision on disposal of the property shall be made by the Government of Republika Srpska.

### **Article 6**

(1) BiH Ministry of Defence and RS Ministry of Defence shall within 30 days from the entry into force of the BiH Law on Defence prepare a comprehensive list of other rights and duties of the RS Ministry of Defence and recommend the plan for transfer of other rights and duties to the BiH Ministry of Defence.

(2) Unless otherwise specified in the plan for transfer of other rights and duties from paragraph (1) of this Article in accordance with the BiH Law on Defence, the Government of Republika Srpska shall remain to be responsible for debts and other liabilities of the RS Ministry of Defence incurred until 1 January 2006.

### **Article 7**

In accordance with the Plan on final disposal of the property, to be approved by the BiH Council of Ministers, the Government of Republika Srpska shall together with the BiH Council of Ministers sign agreements, decisions and other relevant instruments required for termination of all rights and liabilities over movable and immovable property.

### **Article 8**

Budget and all other financial issues related to the RS Ministry of Defence and Army of Republika Srpska shall be resolved in accordance with the BiH Law on Defence.

### **Article 9**

(1) In accordance with the Law on Local Self-Government (Official Gazette of Republika Srpska number 101/04) and BiH Law on Defence records on personnel that fulfilled their military obligation in Republika Srpska shall be transferred to the municipalities in Republika Srpska.

(2) Within 60 days from the entry into force of this Law the Government of Republika Srpska shall issue a Decree to further regulate issues from paragraph (1) of this Article.

(3) During the transfer of records from paragraph (1) of this Article the Government of Republika Srpska shall take into consideration protection of personal data in accordance with the Law on Protection of Personal Data ("Official Gazette of BiH" 32/01).

### **Article 10**

All other issues related to the RS Ministry of Defence and Army of Republika Srpska shall be resolved in accordance with the BiH Law on Defence.

### **Article 11**

This Law shall enter into force eight days after its publication in the "Official Gazette of Republika Srpska".

## *Law on Cessation of the Law on the Army of Republika Srpska*

### **LAW ON CESSATION OF THE LAW ON THE ARMY OF REPUBLIKA SRPSKA**

#### **Article 1**

The Law on the Army of Republika Srpska ("Official Gazette of Republika Srpska" number 31/96, 46/01, 31/03, 33/04 and 40/04) shall cease to exist on 1 January 2006.

#### **Article 2**

Personnel serving in the VRS shall, in accordance with the BiH Law on Defence, become personnel serving in the Armed Forces of Bosnia and Herzegovina as of 1 January 2006 in the rank and position they hold on 31 December 2005.

#### **Article 3**

All rights and duties in accordance with the regulations that were valid until entry into force of this Law shall remain effective until resolution of the status in service of personnel from Article 2 of this Law according to the BiH Law on Defence and Law on Service in the Armed Forces of Bosnia and Herzegovina.

#### **Article 4**

This Law shall enter into force on the eighth day after its publication in the "Official Gazette of Republika Srpska".

## *Law on Changes and Amendments to the Law on Ministries of Republika Srpska*

Pursuant to Article 70, paragraph 1, item 2 and Article 97 of the RS Constitution, Amendment XXXII, items 5, 10 and 11 to the RS Constitution, and Article 201 of the Book of Rules of the RS National Assembly ("Official Gazette of RS", number 50/01), the RS National Assembly during its session held on \_\_\_\_\_  
\_\_\_\_\_ 2005, passed the following

**LAW  
ON CHANGES AND AMENDMENTS TO THE LAW ON MINISTRIES**

The Law on Ministries (“Official Gazette of RS”, number 70/02) is amended as follows:

**Article 1**

Item 5 in Article 3, paragraph (1) is deleted.

**Article 2**

Article 8 is deleted.

**Article 3**

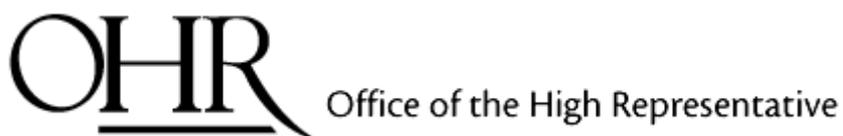
Article 49 is amended by the deletion of the following language: “trade and procurement of armaments and military equipment for the needs of the army.”

**Article 4**

This Law shall enter into force eight days after its publication in the “Official Gazette of Republika Srpska”, and shall apply from 1 January 2006.



## **5.1. High Representative Decision 31 December 2004**



**HR`s Decisions**

331/04 | FRIDAY, DECEMBER 31, 2004

Decisions relating to State Symbols, State-Level Matters and Const. Issues

### **Decision Extending the Mandate of the Defence 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”;

***Recalling*** Article V.5(a) of the Constitution of Bosnia and Herzegovina, 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’s Code of Conduct on Political-Military Aspects of Security, including undertakings related to democratic political control of military forces;

**Recalling** the defence 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”;

**Recognizing** that the Defence Reform Commission, established by Decision of the High Representative on 9 May 2003, worked with diligence and professionalism to draft a Law on Defence of Bosnia and Herzegovina and amendments to the Entity Constitutions that were thereafter 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;

**Further Recognizing** that the Defence Reform Commission made important gains in the further implementation of defence reforms in 2004;

**Considering** that the Ministerial Meeting of the North Atlantic Council, at its meeting on 9 December 2004, recognised that Bosnia and Herzegovina had “made some progress since Istanbul on defence reform” but that “improvements in security and law enforcement structures in Bosnia and Herzegovina, as called for in Istanbul, are required”;

**Further Considering** that the Heads of State and Government of the North Atlantic Council at their summit on 28 June 2004 urged Bosnia and Herzegovina to make “continued progress towards achieving a single military force”;

**Noting** that the Secretary General of North Atlantic Treaty Organisation wrote to the Presidency of Bosnia and Herzegovina on 16 December, 2004, calling for systemic reforms in order to enable Bosnia and Herzegovina to show full cooperation with the International Criminal Tribunal for the former Yugoslavia, including moving swiftly to strengthen State level command and control by transferring the competencies of the Entity Ministries of Defence and commands to the appropriate State defence institutions;

**Recalling** the Communiqué by which the Steering Board of the Peace Implementation Council of 3 December 2004 supported “[t]he extension of the mandate of the Defence Reform Commission to the end of 2005, under the co-chairmanship of Minister Radovanovic and Dr. Raffi Gregorian, and under the operational responsibility of NATO HQ in Sarajevo”;

**Noting** that this extension should take place in the context of a systematic transfer of responsibilities from the DRC to the Ministry of Defence of Bosnia and Herzegovina, as the ministry becomes fully operational. And that in this regard, the Steering Board urged Minister Nikola Radovanovic to complete the staffing of the Ministry of Defence of Bosnia and Herzegovina as a matter of priority.

**Further Noting** that the Steering Board emphasized the need to build on the

progress that has already been made, and called on the authorities of Bosnia and Herzegovina to enhance their efforts in providing the necessary tools for the State of Bosnia and Herzegovina to exercise full and effective Command and Control of the Armed Forces of Bosnia and Herzegovina through the operational and the administrative chains of command;

**Acknowledging** that assistance to and coordination between the authorities of Bosnia and Herzegovina and its Entities will be necessary if Bosnia and Herzegovina is to meet the conditions of the North Atlantic Treaty Organisation for its Partnership for Peace programme and a single military force and that the Defence Reform Commission should continue to coordinate international and local efforts in the field of defence reform;

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

## **DECISION**

### **EXTENDING THE MANDATE OF THE DEFENCE REFORM COMMISSION**

#### **Article 1**

The mandate of the Defence Reform Commission of Bosnia and Herzegovina (Decisions of the High Representative No. 139/03, No. 188/04 and No. 212/04, Official Gazette of BiH 14/03, 4/04 and 26/04, hereinafter "the Commission"), composed as defined in Article 3 of this Decision, is hereby extended and defined in accordance with this Decision.

The mandate of the Commission shall, *inter alia*, include assistance to Bosnia and Herzegovina with regard to further implementation of its recommendations and to oversee the fulfilment of the benchmarks of North Atlantic Treaty Organisation (hereinafter: NATO) for Partnership for Peace and progress toward a single military force for Bosnia and Herzegovina.

#### **Article 2**

The Commission shall examine and propose the legal and institutional measures necessary to enhance State level command and control, promote cooperation with the International Criminal Tribunal for the Former Yugoslavia (hereinafter: ICTY), achieve fiscal sustainability, strengthen parliamentary oversight, and promote development of a single military force by transferring the competencies of the Entity Ministries of Defence to the level of the State of Bosnia and Herzegovina and implement further the Commission's recommendations by, *inter alia*:

1. Developing measures to reinforce and strengthen State-level command and control of the Armed Forces and Defence Institutions of Bosnia and Herzegovina.
2. Developing measures to ensure cooperation with the ICTY by the Defence Institutions and Armed Forces of Bosnia and Herzegovina.

3. Monitoring the timely appointment of personnel to all positions in the Ministry of Defence of Bosnia and Herzegovina, Joint Staff of Bosnia and Herzegovina, Operational Command of Bosnia and Herzegovina and joint units of Bosnia and Herzegovina, including military intelligence and de-mining elements.
4. Supporting the further establishment of new institutional structures that will create a functioning and modern defence system. This includes transferring the competencies of the Entity Ministries of Defence, General Staff of the Army of Republika Srpska, and Joint Command of the Army of the Federation to the level of Bosnia and Herzegovina, and, accordingly, dissolving the Entity Ministries of Defence and Entity-level commands.
5. Assisting with the drafting, the adoption and the implementation of a single budget for the Bosnia and Herzegovina defence establishment that enable the timely implementation of the Commission's recommendations and the benchmarks for Partnership for Peace at the State of Bosnia and Herzegovina and Entity level, and including measures to be adopted in accordance with the introduction of a value added tax and single State account.
6. Assisting Bosnia and Herzegovina and Entity authorities in the restructuring of the new BiH force structure, including identifying and eliminating material, institutional, and personnel redundancies between the Entities and between the Entities and the State of Bosnia and Herzegovina, consideration of the viability, purpose, and structure of reserve forces and conscription, the streamlining of Defence Institutions of Bosnia and Herzegovina to affordable levels compatible with NATO standards, and the development of a long-term financial plan that provides for a State and Entity Defence Budget System and a Common Defence Resource Management System.
7. Supporting Bosnia and Herzegovina and Entity authorities in the attainment of interoperability and equal service conditions throughout the Armed Forces of Bosnia and Herzegovina, including completing and implementing a system for personnel and human resource management for the Armed Forces of Bosnia and Herzegovina.
8. Assisting in establishing and implementing operational standards for the Armed Forces of Bosnia and Herzegovina in the execution of military missions and operations, including a common training policy and a program to address collective training needs (including both staff training and unit training and exercises) in accordance with NATO standards.
9. Assisting with the updating of the Security Policy of Bosnia and Herzegovina and Defence Policy of Bosnia and Herzegovina in accordance with reforms undertaken or approved.
10. Identifying additional reforms necessary to further develop a single military force and stabilizing the overall security situation including the

identification of future reform for the transition of military capabilities and competencies to the State.

### **Article 3**

The Commission shall be composed of two Co-Chairmen, a Vice Chairman and the following members:

1. The Chairman and two Deputy Chairmen of the Joint Commission on Security and Defence of the Parliamentary Assembly of Bosnia and Herzegovina;
2. The Ministers of Defence of the Republika Srpska and the Federation of Bosnia and Herzegovina.

NATO, the European Union, and the European Union Force (EUFOR) shall each be invited to appoint one representative to the Commission.

The Co-Chairmen can appoint new members to the Commission after a request made to the High Representative to that effect is granted.

### **Article 4**

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

The Co-Chairmen may also call for experts to provide expertise and evidence at meetings of the Commission, as they deem necessary for the fulfilment of the mandate of the Commission as provided for in this Decision.

### **Article 5**

The Chief of the Joint Staff of Bosnia and Herzegovina shall be the principal military advisor to the Commission. The Co-Chairmen may invite other senior military officers to attend as advisors to the Commission.

The George C. Marshall European Center for Security Studies shall be invited to appoint a member with observer status to the Commission.

The Co-Chairmen may appoint any other advisors/observers as they deem necessary for the fulfilment of the mandate of the Commission as provided for in this Decision.

### **Article 6**

The High Representative shall appoint a Co-Chairman of the Commission from NATO. The Minister of Defence of Bosnia and Herzegovina will serve as the other Co-Chairman of the Commission. The Director of the Department for Security Cooperation of the Organization for Security and Cooperation in Europe will serve as Vice Chairman of the Commission.

### **Article 7**

The Co-Chairmen shall be responsible for directing the work of the Commission. They 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.

The Vice Chairman will act as the Chairman in the absence of the Co-Chairmen.

### **Article 8**

The Co-Chairmen may establish a Deputies' Committee tasked with coordinating support and assistance to the Commission on matters related to the implementation of this Decision.

In case the Deputies' Committee has been established pursuant to Paragraph 1 of this Article, the Vice Chairman of the Defence Reform Commission shall act as the Chair of the Deputies' Committee. The Co-Chairmen may appoint a Deputy Chair or Deputy Chairs of the Deputies' Committee, if so required.

The membership of the Deputies' Committee shall be nominated by the Co-Chairmen of the Defence Reform Commission.

No specific quorum shall be required in order to hold a meeting of the Deputies' Committee.

### **Article 9**

The Co-Chairmen of the Defence Reform Commission may call for the formation of working groups and sub-working groups as they deem necessary for the fulfilment of the mandate of the Commission as provided for in this Decision.

### **Article 10**

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

### **Article 11**

The Commission will continue to operate until the end of 2005 except otherwise provided by the High Representative.

### **Article 12**

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

*Sarajevo, 31 December 2004*

*Paddy Ashdown  
High Representative*

## **5.2. High Representative Statement 16 December 2004**

### **Statement by the High Representative, Paddy Ashdown at today's Press Conference**

OHR SARAJEVO | THURSDAY, DECEMBER 16, 2004

Thanks for coming.

This is the press conference I had hoped I wouldn't have to call.

Because we are here today, as we were after the Istanbul Summit in June, to take stock of the fact that, yet again, NATO has given this country a 'NO' to PFP membership because of its continued lack of co-operation with The Hague.

I say I had hoped not to be here because, despite wasting three months with holidays and elections I do believe that, in recent days, in some senior quarters, there is some evidence of a change of attitude - that some in the RS are beginning at last to give this issue the serious attention it deserves and requires. Better late than never.

Since Istanbul in June, there have been some positive developments.

The publication of the Srebrenica report – and the apology from the RS authorities that followed – has started to change public attitudes in the Republika Srpska.

We have also seen the recent arrest of eight people indicted for war crimes within BiH under the ICTY's Rules of the Road procedures. These arrests, and transfer to the jurisdiction of the Sarajevo Cantonal Court, were not easy for the RS authorities to conduct, or for some people in the RS to accept. It's a small step – but it is a step in the right direction. And they deserve credit for getting it done.

We have also seen greater activity on the part of the RS authorities with regard to locating and arresting those indicted by The Hague. That too is welcome and I have taken this into account in deciding on the measures I announce today.

But none of this has so far altered the fact that the RS has, for nine full years, failed to arrest a single person indicted for war crimes by the ICTY. There is speculation that this may soon change: well, we shall see. Let us hope so. But until now, that is the situation.

That is the cold, hard fact that stands between this country and its European future. The stark irrefutable fact, which puts the RS – as the US Government points out – in fundamental breach of Dayton, to which once again, I have no option but to respond.

In addition, Carla Del Ponte, the Steering Board of the Peace Implementation Council, and NATO have all highlighted the individual obstruction and the sys-

temic weaknesses in the RS law enforcement and security structures.

I have no option, in the face of this, but to act.

Especially since with each passing week, ever more disturbing examples of individual obstruction and systemic problems have come to light.

Two weeks ago, it was revealed that Ratko Mladic's personnel file indicated that he was a member of the VRS until as recently as 2002 when he was discharged by order of then RS President, Mirko Sarovic. For nine years, the RS authorities have claimed they were hunting for Mladic. Yet for seven of those nine years, they were actually employing him.

Then it was revealed from reliable sources that the VRS were, as recently as this summer, actually harbouring and protecting Mladic, in an isolated military shelter near Han Pijesak. While the authorities in Banja Luka were telling anyone who would listen of their efforts to apprehend war criminals, members of their own army sat in their own military base, celebrating VRS day with Ratko Mladic.

Then there was the case of Gojko Jankovic, an ICTY indictee that the RS Police attempted to arrest in Foca on Saturday October 30<sup>th</sup> this year. Or so we thought. It has subsequently come to light that Jankovic was tipped off by senior members of the RS MUP. Which is why he felt sufficiently relaxed to appear in Foca both the day before the raid, and again, the day after the raid, when he attended a public funeral with his wife and son.

Each of these represents, in and of themselves, shocking examples of the RS's institutional complicity in the evasion from justice of ICTY fugitives.

There may be a new attitude in some quarters in the RS – but it is being impeded by individual obstruction and systemic weaknesses elsewhere.

You see, Karadzic, the other Hague indictees, and all those in the RS who have helped them evade justice over the last nine years, have calculated that the more time goes by, the less pressure they will be under. I have read letters from Mr Karadzic to his associates, which say exactly that.

Well we are here today to underline, as we did in June, the degree to which they have miscalculated.

The longer the RS does not cooperate with The Hague, the longer the citizens of BiH will have to wait before they can enjoy the prosperity and security that joining the European Union and NATO will bring them.

The longer the RS authorities don't co-operate with The Hague, the more they will place in jeopardy not only their own careers, but also the assets and competencies of the RS itself.

So what I am announcing today is not an event, but a process. You should judge that process in its entirety – not just on the basis of the measures which I will set out in a moment, but on what happens in the coming weeks.

This is a process that is designed to address the systemic weaknesses of the RS' security institutions. It will run through the next four months.

I will recommend to NATO that they should look again at this issue in April.

If by then BiH fails for a third time, I will recommend a policy of 'three strikes and you're out' – in other words, I will recommend to NATO that they should **not** consider BiH again until all conditions relating to co-operation with ICTY are fulfilled.

But if that happens – if the RS, and because of it, BiH fails a third time - then I need to make it very clear that I will not hesitate to take measures that deal, directly and powerfully, with the assets and institutions of the RS. And I can tell you now, no options are currently ruled out, if it comes to this.

As for today, the steps I announce are designed to give those who seem to be getting more serious about catching war criminals, the time, the means and the space to succeed; in part by clearing away obstructionist elements who are working against them, and in part by addressing the systemic problems with which they are currently dealing.

So here are the measures. They are divided into two categories and there are nine in all. The first group is targeted at individuals and the second at systemic weaknesses in the RS.

1. In the first category there will be a number of removals from office targeted at those who I have good reason to believe have helped war criminals and their networks, or have failed in their duties to take active steps to catch war criminals.

They are:

1. **Milorad Maric** Chief of Zvornik Public Security Centre
2. **Milomir Malis** Commander of Foca Public Security Centre
3. **Zoran Ostojic** Deputy Commander Foca Public Security Centre
4. **Predrag Jovicic** Officer in Pale Public Security Centre
5. **Mrksa Skocajic** Chief of Trebinje Public Security Centre
6. **Petko Pavlovic** Commander of the Zvornik Field Office of the State Border Service
7. **Nade Radovic** President of the Foca Board of the SDS, member of the main board of the SDS and delegate in the BiH House of Peoples
8. **Milorad Bilbija** Deputy Head OSA in Banja Luka
9. **Cedomir Popovic** Head of the Dept of Veterans-Invalids Care in Bileca, of the Ministry of Labour and Veterans of the Republika Srpska

2. I have also, on the same grounds, taken steps to block individual bank ac-

counts of the following persons:

**Miroslav Bralo**

**Ljubisa Beara**

**Vlastimir Djordjevic**

**Sreten Lukic**

**Vladimir Lazarevic**

**Goran Hadzic**

3. I will also be requiring Prime Minister Mikerevic to set up a group, under the supervision of the EU Police Mission, to analyse the documentation produced by the Srebrenica Commission, and to identify all officials, with emphasis on those still in the employment of the RS authorities, whose names appear in these confidential annexes. I expect the work to be completed, and a report delivered both to the State Prosecutor and to me, by the end of February. I will then determine what action should be taken to protect the integrity of the RS and BiH institutions. My letter to Prime Minister Mikerevic will be available following this press conference.

These measures are all designed to remove from the RS institutions – and especially from the RS security structures – those who bear individual responsibility for the RS' non co-operation with the ICTY.

The second category of measures tackles systemic weaknesses in the RS.

If the first measures are about crime and punishment, the remaining measures are about problem and solution. The solutions, in most cases, are already envisaged for the coming years, are necessary – let me stress - in and of themselves, and are required in any event if BiH is to join the European Union and NATO.

The first relates to the systemic problems in the VRS.

I mentioned Han Pijesak earlier. This is just one symptom of the lack of control by the State over the armed forces. EUFOR have today begun the process of putting these facilities, and others like them, beyond use. The Commander of EUFOR will be providing details of his on-going operations shortly.

For my part, I will be looking to transfer ownership of these military sites, where appropriate, to the State of BiH.

I have also written today to the BiH Minister of Defence about the assistance given by some in the VRS to fugitives at large. By now the command and control of all BiH forces should be at the State level. The Han Pijesak incident clearly shows this is not the case in the RS. I have therefore asked Minister Radovanovic to identify weaknesses, highlight individual failures and propose measures to strengthen state control and prevent this happening again. He will submit a report to me by 14 February. The letter to Mr Radovanovic will be available to you after this Conference.

But these are no more than short-term measures. Which is why I will also now require the BiH authorities to push ahead, without delay, with the next stage of Defence reform, which will require the transfer of the functions currently carried out in the Entity MoDs to the BiH MoD. This was due to happen over the next three years. It will now happen during 2005. This process will be overseen by the Defence Reform Commission, which will, as its first task, draft the necessary legislation for consideration in the BiH and Entity Parliaments. We expect to see that legislation adopted by the 1<sup>st</sup> July and implemented by the autumn of 2005.

This will mean that by the end of next year, both entity MODs will cease to exist and their functions will be carried out by the State.

But the systemic problems that have allowed indictees to escape justice are not restricted to the military. They also apply to the police. Here, we now have a solution – a solution that has been prepared by the Police Restructuring Commission, in response to NATO's call for systemic changes in the law enforcement field. I have seen a summary of the Commission's proposals. It recommends a single system of policing, with all competency for law enforcement at the State level, and with police regions drawn up on the basis of what is best, for catching criminals. These are the principles on which the European Commission has made clear repeatedly police restructuring must be organised. You will recall that police re-structuring is one of the 16 pre-conditions in the European Commission's Feasibility Study. The European Commission has been very clear that there must be significant progress in line with these principles if BiH is to move forward in the Stabilisation and Association process. So those who stand in the way of this, stand in the way of this country's future in Europe. I expect to see these reforms adopted early next year.

Next, I have today amended the BiH and Entity Criminal Procedure Codes to strike out the provision that exempts large numbers of relatives of ICTY indictees from the obligation to assist the police with their investigations or to give evidence in a war crimes trial. That provision should rightly apply only to spouses, parents and children. It should not, as is currently the case, apply to more distant relations.

Finally, I will be introducing new requirements on the publicly owned strategic enterprises in Republika Srpska. Successive audits including the most recent one on Srpske Sume have shown a total lack of transparency and proper procedure which opens the door to crime, corruption and the funding of war criminal networks on a huge scale. In the last couple of months alone, 24 criminal investigations and prosecutions have been initiated in connection to Srpske Sume, and there may well be more to come. Tackling this problem requires not just criminal action against individuals, but also systemic change.

So I am amending the RS Law on Auditing to require all the RS strategic firms to carry out, pay for, and publicise regular audits to be conducted by the RS Auditor General. We have already identified the first six companies to be audited.

This has been a long statement, with a long list of measures. I hope, as I said at

the outset, that this will be the last press conference I have to give announcing steps to tackle the RS authorities' failure, over nine long years, to meet their obligation to co-operate fully with the ICTY.

I hope that next year – the tenth anniversary of Dayton, and the tenth anniversary, let us remember, of the Srebrenica massacre – I will be able to call you all here to welcome the fact that indicted war criminals are being sent to The Hague rather than hiding.

I say I hope to be able to do this. But I don't want to leave anyone here in any doubt as to how I will act if this is not the case.

This is the beginning of a process. If this is not done, that process will bring consequences – for the institutions and assets of the RS.



SECRETARY GENERAL  
LE SECRÉTAIRE GÉNÉRAL  
Jaap de Hoop Scheffer

SG(2004)1325

16 December 2004

Dear Mr. President,

Earlier this month, I was pleased to attend the ceremony marking the conclusion of the SFOR Mission and the launch of EUFOR. A smooth transition from SFOR to EUFOR has been a top-priority for me and I believe we have succeeded. NATO's commitment is, and will remain, undiminished. Indeed, your country's aspirations to join the Partnership for Peace were discussed by Foreign Ministers last week. Allies are concerned that Bosnia and Herzegovina's earlier significant progress towards meeting NATO's benchmarks for Partnership for Peace seems to have slowed and it seems necessary to build up some new momentum.

As you know, NATO is ready to assist you and I am pleased the Organization has taken up the co-chairmanship of the Defence Reform Commission. NATO Headquarters Sarajevo will provide the lead for defence reform issues on a day-to-day basis, and I have in addition appointed Assistant Secretary General for Defence Planning and Policy, Mr John P Colston, to make sure that I, and Allies, can follow developments closely.

Many good ideas are on the table for further progress, but your support, as Tri-Presidency and as the Supreme Commanders of the armed forces of Bosnia and Herzegovina, on the most sensitive questions will be essential. Full cooperation with ICTY has been and will remain crucial. I urge you to make the necessary systemic reforms needed to enable Bosnia and Herzegovina to show such full cooperation.

I believe this means support for further measures to move swiftly to strengthen state-level command and control by transferring the competencies of the entity Defence Ministries and commands to the appropriate Bosnia and Herzegovina defence institutions, eliminate existing redundancies, adopt a single defence budget funded by the Bosnia and Herzegovina government and combine entity personnel, training, and logistic functions into Bosnia and Herzegovina-level commands. Entity armed forces themselves would remain in existence, as appropriate. I believe that these changes would also put BiH in a better position to overcome resistance in certain structures to meet all the established conditions for Membership in the Partnership for Peace.

Yours sincerely,



Jaap de Hoop Scheffer

Mr Borislav Paravac  
Chairman of the BiH Presidency

#### **5.4. BiH Ministry of Defence Report to the High Representative – 14 February: Summary of Recommendations**

- Based on the High Representative's letter of 16 December 2004, the Ministry of Defence of Bosnia and Herzegovina (MoD) conducted a comprehensive investigation with the aim to determine systemic weaknesses of command and control over the Armed Forces of Bosnia and Herzegovina (AFBiH) and submitted the report on that subject to OHR on 14 February 2005.
- The investigation focused on identifying measures necessary to allow efficient state-level command and control over the AFBiH and eliminate the possibility for the elements of the defence establishment to assist persons indicted for war crimes in front of the International Criminal Tribunal for former Yugoslavia.
- In addition, the investigation concentrated on identifying the weaknesses and individuals involved in illegal activities of providing support to Ratko Mladic.

#### **Final considerations**

- The investigations conducted confirmed without a doubt that major defence reforms have been conducted in the BiH defence system with ongoing implementation. The command and control over the Armed Forces of BiH starts from the state level through the administrative and operational chain of command to all units in the AF. The low level of manning and lack of functional completeness of the BiH Ministry of Defence, BiH Joint Staff and Operational Command are significant limiting factor of full capacity and efficiency of state level command and control over the Armed Forces.
- During implementation of the reform solutions, a number of systemic documents have been developed (doctrines, standards, policies and guidelines). For command and control, essentially important was the adoption of Command, Control and Communication Policy, as well as the reform of military intelligence and security system.
- During 2004, the number of military professionals in the entity armies has been reduced by 30 percent. However, the pace of the reduction of the number of personnel was not followed by the relevant reduction of the number of military locations. For the further reduction of military locations and im-

plementation of Defence Resource Management System, additional resources will be required.

- The event from High Representative's letter in reference to the discharge of Ratko Mladic from the VRS by Republika Srpska in 2002, has not been fully confirmed though the investigation conducted. It was confirmed clearly that payments of salary difference have been made to his name during the period from 01 July 1999 until 31 December 2001. This event occurred before the reforms in the field of defence and prior to establishment of the Ministry of Defence of Bosnia and Herzegovina. By merging the RS MoD and VRS budgets and the adoption of the Law on Treasury of Republika Srpska, these illegal activities have stopped.
- The accommodation and hiding of Ratko Mladic in the military facility near Han Pijesak in summer 2004 could not be verified by the investigation as it was not possible to link any individual from the RS military establishment and location of military facility near Han Pijesak with the provision of such assistance.
- The bodies engaged in the investigation had full access to the required documents, facilities and individuals. Co-operation during the investigation was correct and special assistance was provided by OHR, OSCE and EUFOR Command by engaging their experts and advisors in the investigative bodies.

### **Measures to be Undertaken**

#### **Excerpt:**

#### **1. Measures to prevent the RS military establishment from providing assistance to persons indicted for war crimes**

- To review all military personnel currently serving in the VRS in order to confirm that all persons involved in providing assistance to persons indicted for war crimes or involved in anti-Dayton activities are no longer serving in VRS. To focus on the former 410<sup>th</sup> intelligence centre and units for securing the facilities and individuals.
- Implement basic security vetting of personnel involved in providing the security of remote military locations.
- Quickly review the need for all military installations, and close down those not needed.

**2. Measures to make state-level command and control real and efficient that can take effect immediately:**

- Fully man the BiH MoD, BiH Joint Staff and BiH Operational Command with personnel.
- Complete the list of infrastructure. (DRC Team 5)

**3. Measures to make state-level command and control real and efficient that require additional financial resources:**

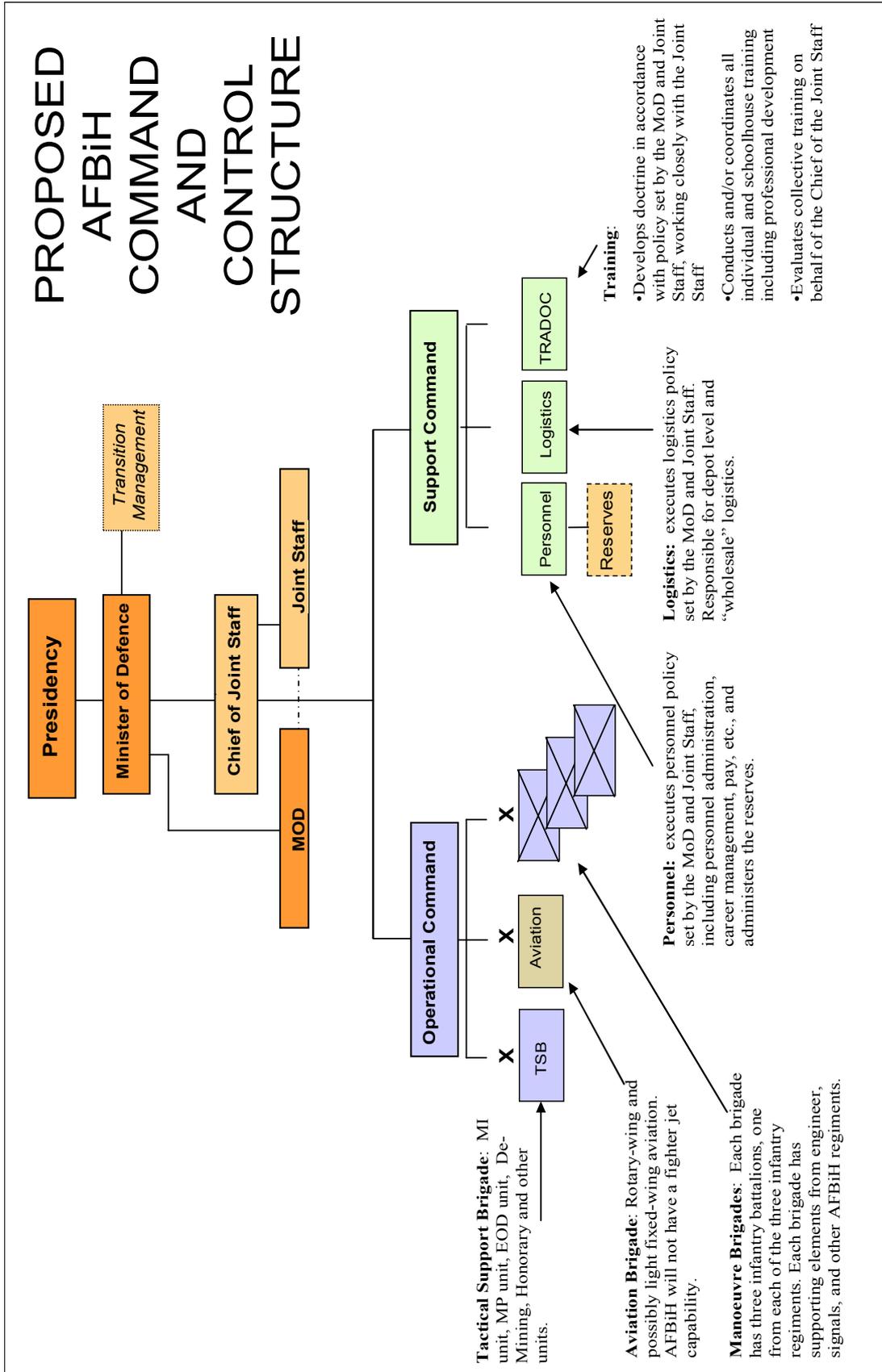
- Implement the military intelligence concept in accordance with DRC proposal from 2004. (DRC Team 9)
- Establish a financial auditor within BiH MOD answerable directly to the BiH Minister of Defence in accordance with Article 18 of the BiH Law on Defence.
- Enable the BiH MoD Finance and Budget Sector to work on the PPBES-planning, programming and budget execution of the BiH defence system.

**4. Measures to make state-level command and control real and efficient that require amendments to current legal regulations:**

- Professionalize the armed forces so that all soldiers have the opportunity to have contracts in accordance to the policies agreed, that allow for professional development.
- Transfer all authority for strategic and operational military intelligence to state level and establish a state-level unit as proposed by DRC in 2004.
- Develop the concept of military police.
- Consider the development of the Draft Law on Service in the Armed Forces of BiH.



## 5.5. Chain of Command Diagram





## 5.6. BiH Brigade and Infantry Locations Proposal

