

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 fulfillment 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 fulfillment 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 fulfillment 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 fulfillment 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