

Decision Enacting the Law on the Judicial Police of Bosnia and Herzegovina

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 the 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 further paragraph 12.1 of the Declaration of the Peace Implementation Council which met in Madrid on 15 and 16 December 1998, which made clear that the said Council considered that the establishment of the rule of law, in which

all citizens had confidence, was a prerequisite for a lasting peace, and for a self-sustaining economy capable of attracting and retaining international and domestic investors;

Recalling in addition paragraph 3 of Annex II (Rule of Law and Human Rights) to the last said Declaration, according to which the establishment of judicial institutions at the State level, which meet an established constitutional need to deal with criminal offences perpetrated by public officials of Bosnia and Herzegovina in the course of their duties, and with administrative and electoral matters, is a precondition for the establishment of the rule of law in Bosnia and Herzegovina;

Bearing in mind the reinvigorated strategy for judicial reform to strengthen the Rule of Law efforts in Bosnia and Herzegovina in 2002/03 which was endorsed by the Steering Board of the Peace Implementation Council on 28 February 2002 and noting that the aforementioned strategy was devised in response to calls by the authorities in Bosnia and Herzegovina for firmer International Community actions to tackle economic crime, corruption and problems inherent in the judicial system;

Considering that the Steering Board of the Peace Implementation Council in Sarajevo on 7 May 2002 called upon the local authorities to ensure the rapid establishment of the Court of Bosnia and Herzegovina reminding the Bosnia and Herzegovina authorities that the Appellate Division of the Court needs to be operational in order to adjudicate election complaints and urging the authorities to immediately find a sustainable solution to the problem of the location of the Court;

Noting therefore that a Judicial Police of Bosnia and Herzegovina providing for the effective execution of court orders and maintenance of security within the court building is a necessary requirement for the proper functioning of the

Court of Bosnia and Herzegovina;

Convinced of the vital importance to Bosnia and Herzegovina of ensuring that the rule of law is strengthened and followed in order to create the ground for economic growth and foreign investment;

Mindful therefore both of the urgency and of the need to establish the Judicial Police of Bosnia and Herzegovina and for all the reasons as aforesaid,

The High Representative hereby issues the following

DECISION

Enacting the Law on the Judicial Police of Bosnia and Herzegovina, which is hereby attached as an integral part of this Decision.

The said Law shall enter into force as a law of Bosnia and Herzegovina as provided for in Article 30 thereof on an interim basis, until such time as the Parliamentary Assembly of Bosnia and Herzegovina adopts this Law in due form, without amendment and with no conditions attached.

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

Sarajevo, 24 January, 2003

Paddy Ashdown
High Representative

THE LAW ON THE JUDICIAL POLICE OF BOSNIA AND HERZEGOVINA

I – BASIC PROVISIONS

Article 1.

This Law provides for the establishment of the Judicial Police, sets out its powers, organization and means of work, rights and obligations, employment relations and other issues that are of importance for the organization and work of the Judicial Police of Bosnia and Herzegovina (hereinafter: Judicial Police).

Article 2.

The Judicial Police shall carry out duties that fall under its jurisdiction set forth by law. Specific regulations and rules relating to duties of the Judicial Police shall be issued by the Council of Ministers upon proposal by the Minister of Justice.

Article 3.

The ethnic composition of the personnel of the Judicial Police shall be generally representative of the peoples of Bosnia and Herzegovina.

Article 4.

The Minister of Justice shall be responsible for the administration of the Judicial Police and the Judicial Police Commander shall be responsible for operational control of the Judicial Police.

II – POWERS OF THE JUDICIAL POLICE

Article 5.

(1) The Judicial Police shall assist the Court of Bosnia and Herzegovina and the Prosecutors office of Bosnia and Herzegovina as prescribed by law in securing information, in executing Court orders for the compulsory apprehension of

witnesses, in executing Court orders for the bringing in of accused persons, in taking convicted persons to an institution for the execution of sanctions pronounced by verdict of the Court, in maintaining order in the courtroom, ensuring the safety of judges and employees of the Court as well as other persons within the Court, internal security of the Court building, and executing other Court orders.

(2) The Judicial Police, as regulated by law, also assists in providing security for investigation of official documents, including Court and administration files, especially in obtaining the necessary information, documents and files if there is resistance by an official person during the investigation or co-operation.

(3) The Judicial Police shall carry out Court orders related to the search of property and persons, to the temporary appropriation of objects, to ensuring the implementation of the execution of Court orders, as well as other Court orders aimed at taking actions whereby the success of the conduct of particular judicial proceedings is secured. The Judicial Police may require the assistance of BiH law enforcement agencies, within the entities and Brcko District, for expertise or operational support.

Article 6.

The Minister of Justice shall, at the request of the Chief Prosecutor of Bosnia and Herzegovina, make a special agreement on rendering assistance of the Judicial Police to the Prosecutors' Office of Bosnia and Herzegovina.

III – ORGANIZATION AND MEANS OF WORK OF THE JUDICIAL POLICE

Article 7.

The internal organization of the Judicial Police shall be regulated in a bylaw issued by the Council of Ministers upon proposal of the Minister of Justice.

Article 8.

(1) The commander of the Judicial Police is in command of the work of the Judicial Police in the manner set forth through regulations issued by the Minister of Justice in accordance with article 7 of this Law.

(2) Any person having at least the VI degree of education (higher education) and seven years of practical experience as a Judicial Police officer or with experience of similar assignments in law enforcement agencies may be appointed Commander of the Judicial Police.

(3) The Minister of Justice shall appoint the commander of the Judicial Police.

Article 9.

The Council of Ministers of Bosnia and Herzegovina shall determine the overall number of Judicial Police officers upon the proposal of the Minister of Justice.

Article 10.

Means of work of the Judicial Police shall be secured from the budget of the institutions of Bosnia and Herzegovina.

Article 11.

The Ministry of Justice shall carry out procurement and financial operations for the Judicial Police.

IV – RIGHTS AND OBLIGATIONS OF JUDICIAL POLICE OFFICERS

Article 12.

(1) Judicial police officers shall be armed and uniformly dressed.

(2) The Ministry of Justice shall provide the Judicial Police with the necessary equipment for carrying out their

duties.

(3) A Judicial Police officer shall have an official identity card confirming his capacity as a Judicial Police officer and his right to carry and use weapons.

(4) The Ministry of Justice shall issue official identity cards to the Judicial Police officers.

Article 13.

Judicial Police officers have a duty to protect human life and human dignity in the performance of their work or tasks and to respond in situations where these interests are being threatened. They can apply only those means of force determined by this Law which are absolutely necessary and by which the performance of their tasks and duties is achieved with the least harmful consequences; if otherwise, they are criminally and disciplinarily responsible in accordance with this and other relevant law.

Article 14.

(1) In carrying out their duties, Judicial Police officers may use appropriate and necessary proportionate force only in cases when it is necessary to prevent a bodily attack against judges, prosecutors, other employees of the Court, and any other persons they are tasked to protect, and further to prevent the escape of a witness, suspect or convicted person or material damage to the Court.

(2) Proportionate physical force may also be applied when necessary to overcome the resistance of a person who is subject to the execution of a Court order.

Article 15.

(1) If, by applying means of coercion referred to in article 14 of this Law, a Judicial Police officer cannot ensure protection or discharge of his duties, the use of a firearm

will be permitted if there is no other way to:

- a. protect the lives he/she is obliged to protect;
- b. avert an imminent assault which endangers his life or the lives of judges, prosecutors or other employees of the Court, and other persons he/she is obliged to protect;
- c. prevent the escape of a suspect, the accused, or convicted person whom he/she is guarding, bringing in or escorting, if specific circumstances justify the fear that such person might use fire arms against another person, or if so indicated by the manner of the execution, the consequences or other circumstances of the criminal offense the person perpetrated.

(2) When there is a justified reason for use of firearms, a Judicial Police officer shall first identify himself/herself, if possible, and give clear warning that he/she will use firearms.

(3) A Judicial Police officer shall give enough time for the warning to be obeyed, except in a situation where it would create a risk to him or her or create a threat of serious injury or death to others, and circumstances dictate the need for immediate action.

(4) While using firearms, a Judicial Police officer is obliged to protect the lives of other people, and he/she is obliged to submit immediately a written report to the commander of the Judicial Police on such use of firearms. The commander of the Judicial Police is obliged to immediately submit a written report to the Minister of Security on each use of means of coercion and firearms.

(5) Judicial Police officers may not fire warning shots nor fire on moving vehicles in chase situations unless the vehicle is used as a means to inflict injuries on Judicial Police officers or others or if necessary in order to prevent serious

injuries or death caused by the firing of weapons at Judicial Police officers or others.

Article 16.

(1) A Judicial Police officer who carries out his or her assignments as part of a group may use firearms only upon an order by the leader of the group.

(2) An order to use firearms referred to in paragraph 1 of this article may be issued only in cases and under conditions stipulated by this Law.

Article 17.

The Minister of Justice shall, upon obtaining the opinion of the Minister of Security, make detailed regulations on the use of firearms and other means of coercion.

Article 18.

While apprehending a suspect, the accused, or a convicted person who is escorted to an institution for the execution of sanctions, a Judicial Police officer may enter another's property or other premises as regulated by the Criminal Procedure Code of Bosnia and Herzegovina and other laws.

Article 19.

(1) If criminal, misdemeanour or civil legal proceedings are initiated and conducted against a Judicial Police officer due to use of firearms, means of force or other interventions while performing or in connection with the performance of his or her jobs and tasks, Bosnia and Herzegovina shall provide legal defence for that person and other appropriate legal support in connection with the conduct of the proceedings.

(2) Legal support shall also be provided to a Judicial Police officer or to his/her family if appropriate, as a victim in a procedure for compensation for damage, if damage

was caused to him/her while performing or in connection with the performance of official jobs and tasks.

(3) Bosnia and Herzegovina will not offer legal support referred to in paragraphs 1 and 2 of this article to an employee against whom a disciplinary measure of termination of working relationship was pronounced in a concrete case arising out of an intentional violation or abuse of authority while performing jobs and tasks, or in a case in which Bosnia and Herzegovina has filed criminal charges against an employee.

Article 20.

(1) Persons who, at the request of a Judicial Police officer or at their own initiative, render assistance in subduing a person who offers resistance, or in apprehending a fugitive, and in the course of such action suffers an injury, becomes sick or suffers a long-term disability to work, shall be entitled to the same social insurance benefits as are the full-time employees of institutions of Bosnia and Herzegovina.

(2) Should a person referenced in paragraph 1 of this article lose his life in the course of rendering assistance to a Judicial Police officer; he/she shall be buried at the expense of the Judicial Police.

(3) In a case referred to in paragraph 2 of this article, the family or the person whom the deceased person supported is entitled to a one-time financial aid that may not be less than the total salary that the deceased person earned in the most recent six months. If the deceased person was unemployed, the Minister of Justice shall determine the amount of the financial aid.

Article 21.

(1) Judicial police officers shall be obliged to keep an official secret.

(2) The Ministry of Justice shall regulate exactly what is considered an official secret, the mode of keeping an official secret and conditions for waiving the obligation to keep an official secret.

V – EMPLOYMENT AND DISCIPLINARY RESPONSIBILITY

1. Employment

Article 22.

Provisions set forth in Bosnia and Herzegovina laws on employment in state institutions shall be accordingly applied to employment in the Judicial Police, unless otherwise stipulated by this Law.

Article 23.

(1) Besides the requirements prescribed by the Bosnia and Herzegovina laws on employment in the state institutions, a person who is employed as a Judicial Police officer must meet the medical, psychological, and physical requirements in accordance with the standards prescribed for police officers as defined in regulations to be issued by the Minister of Justice.

(2) An appropriate medical institution appointed by the Minister of Justice shall assess medical, psychological, and physical fitness of persons referred to in paragraph 1 of this article.

Article 24.

The Minister of Justice shall regulate all rights and obligations relating to employment, health, pension and disability insurance, as well as other rights related to the work of the Judicial Police.

2. Disciplinary responsibility

Article 25.

Judicial police officers shall be held disciplinarily responsible for violations of their obligation to work.

Article 26.

(1) The following are considered grave violations of the obligation to work:

- a) improper use of force;
- b) negligent performance of tasks and duties which may lead to a breach of the regulations on the maintenance of official secrets or the disclosure of such secrets;
- c) arbitrary abandonment of the workplace or the place of protection of buildings or persons;
- d) failure to take action or taking an insufficient action within one's obligations necessary for the safety of judges and other employees of the Court, internal security of the Court, persons and things entrusted;;
- e) illegal deployment of resources, or illegal obtaining of personal and material benefits in connection with the performance of regular tasks and duties;
- f) failure to undertake measures or taking insufficient measures or failing to provide assistance within the framework of their rights and responsibilities to other employees when they are performing official activities;
- g) Concealment of facts in respect of time, extent and mode of performance of official activities or the use of means of force by a Judicial Police officer when, by carrying out those actions or the using of force, a serious breach of work duty has been committed;
- h) failure to render legal and other professional

assistance within the framework of their rights and obligations to a party who does not know his or her legal rights;

i) avoidance of obligations in connection with professional qualification and advanced study;

j) avoidance of doctor's examinations for the sake of establishing competence for work;

k) engaging in outside employment without the approval of the Commander of the Judicial Police.

Article 27.

(1) The procedure for the establishment of disciplinary responsibility of a Judicial Police officer shall be instituted and carried out by the Minister of Justice.

(2) The Minister of Justice shall determine the disciplinary procedure for the establishment of disciplinary responsibility of a Judicial Police officer.

Article 28.

(1) A Judicial Police officer shall be temporarily suspended from the position he/she has been assigned to, or from the Judicial Police, if criminal or disciplinary proceedings have been filed against him or her for a grave violation of his/her obligation to work. Such suspension shall be pronounced by the Commander of the Judicial Police if, given the nature of the criminal offense or the gravity of the alleged violation of the obligation to work, circumstances under which the offense or violation has been committed, as well as other circumstances, it may reasonably be inferred that it would be detrimental to the interests of the Judicial Police if the Judicial Police officer in question should remain at the position he/she had been assigned to, or in the Judicial Police

(2) In a case referred to in paragraph 1 of this article, a Judicial Police officer who has been temporarily removed from service shall have his/her weapon, ID card and badge taken away, and, during such period, must not wear a uniform during the suspension. He/she may also be subject to reduction in salary, suspension of salary, or re-assignment to desk duty for the duration of the suspension.

VI – TRANSITIONAL AND FINAL PROVISIONS

Article 29.

(1) The Ministry of Justice shall, within 30 days of the coming into effect date of this Law, pass necessary regulations required for the implementation of this Law, in particular in the areas of;

- a. liability and compensation for damages caused by the Judicial Police in the line of duty;
- b. employment, personnel, and service regulations, including the number of employees;
- c. manner of funding;
- d. co-operation, both domestic and international, with other law enforcement authorities, courts, and prosecutors offices.

Article 30.

This Law shall be published in the “Official Gazette of Bosnia and Herzegovina” and shall come into force eight days after the date of such publication.