Decision Enacting the Law on Amendments to the Law on Internal Affairs of Western Herzegovina Canton

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 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 Art. 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";

Bearing in mind Article I(1) of Annex 11 of the General Agreement for Peace in Bosnia and Herzegovina, which stipulates that the Parties "shall provide a safe and secure

environment for all persons in their respective jurisdictions, by maintaining civilian law enforcement agencies operating in accordance with internationally recognized standards and with respect for internationally recognized human rights and fundamental freedoms…";

Considering that, in accordance with Article I(1) of Annex 11 aforesaid, there is a need for strengthening the institutional integrity of law-enforcement agencies in accordance with the highest European standards;

Taking into account the need for implementation of the Systems Analysis Project performed by the United Nations Mission in Bosnia and Herzegovina, which will serve to harmonize structures and core aspects of law enforcement throughout BiH and, in particular, the recommendations on basic standards for democratic policing arising from the systems analysis of the Western Herzegovina Canton police service.

Having taken into account and considered the totality of the matters aforesaid, the High Representative hereby issues the following

DECISION

Enacting the *Law on Amendments to the Law on Internal Affairs of Western Herzegovina Canton* (Official Gazette of the Western Herzegovina Canton, 8/02) as hereinafter set out.

This Decision, which shall come into force forthwith shall be published without delay in the Official Gazette of Western Herzegovina Canton.

The said *Law on Amendments*, which forms an integral part of this Decision, shall enter into force pursuant to Article 35 thereof on an interim basis until such time as the Cantonal Assembly adopts the same in due form, without amendment and with no conditions attached.

Sarajevo, 6 December 2002

Paddy Ashdown
High Representative

LAW ON AMENDMENTS TO LAW ON INTERNAL AFFAIRS OF

WESTERN-HERZEGOVINA CANTON

Article 1

Article 1 shall be amended to read as follows:

"This Law regulates internal affairs within the authority of Western-Herzegovina Canton (hereinafter: the Canton), the organization and authorities of the Cantonal Ministry of Interior (hereinafter: Ministry), the Ministry administration, the manner of policing, duties and rights of authorized official persons, mutual relationships and cooperation of the Ministry with the Ministry of Interior of the Federation of Bosnia and Herzegovina (hereinafter: Federation Ministry), Ministries of Interior of other cantons and municipalities within the Canton, working relationship, disciplinary accountability and professional and specialised training of employees of the Ministry, as well as other issues of importance for the functioning of the canton in the field of internal affairs."

Article 2

In article 2, paragraph 1, item 5 shall become item 6 and the following words shall be deleted from the item:

"taking care of public gatherings," and "purchase, keeping and carrying of weapons and ammunition".

In article 2, a new item 5 shall be added to read as follows:

“Duties and tasks in relation to the holding of public gatherings, and in relation to the supply, possession and holding of arms and ammunition.”

Article 3

In article 5, paragraph 2, the words “as well as it establishes”, shall be replaced with the following words “ and the Police Commissioner shall decide”.

Article 4

In article 7, paragraph 2, after the first word “Ministry” the following words shall be inserted: “, through the Administration of Police, ”.

Article 5

In article 10, paragraph 1, the item starting with the words “cooperates with independent commission board” shall be amended to read as follows:

“Cooperates with and makes available to the Public Complaints Bureau in the Ministry of Interior, supervised by the Commission of Review created by the Cantonal Government and Cantonal Assembly, all documents,with reference to allegations of misconduct of Ministry employees. It shall also make available personnel for questioning and for assistance, as may be required;”

Article 6

In article 13, the last paragraph shall be amended to read as follows:

“Constituent peoples and members of the group of Others shall be proportionally represented in the Ministry in accordance with the 1991 Census until Annex 7 of the General Framework

Agreement for Peace is fully implemented and at all times and thereafter in accordance with the Constitution of the Federation of Bosnia and Herzegovina.”

Article 7

Article 14 shall be amended to read as follows:

“Tasks within the jurisdiction of the Canton shall be performed by organizational units in the Ministry, which are:

– The Minister’s Cabinet

– The Administration of Police

– The Administration of Administration and Support

The Book of Rules on Internal Organization and Systematisation shall determine the number and type of organizational units from the previous paragraph.”

Article 8

Article 15 shall be amended to read as follows:

“The Administration of Police is responsible for the tasks and duties specified in Article 2, paragraph 1, items 1 through 5 of this Law.”

Article 9

Article 16 shall be amended to read as follows:

“The Administration of Administration and Support is responsible for tasks and duties within the Ministry’s competence apart from those tasks that are assigned by law to the Minister’s Cabinet and the Administration of Police.”

Article 10

Article 17 shall be amended to read as follows:

“A Police Administration shall be formed within the Canton, and shall be responsible for serving one or more municipalities.

A Police Administration shall have one or more police stations.

A Police Administration is managed by a Chief of Police Administration appointed and dismissed by the Police Commissioner.”

Article 11

In article 19, the following item shall be deleted:

“affairs with foreigners as based on the law,”

In article 19, the last paragraph shall be deleted.

Article 12

Article 20, paragraph 1 shall be deleted.

Article 13

Article 22, paragraph 1 shall be deleted.

In article 22, paragraph 3, the words “in paragraphs 1 and 2” shall be amended to read “in paragraph 1”.

Article 14

In article 24, paragraph 3, item 10, after the word “establishes”, the words “under the operational command of the Police Commissioner,” shall be inserted.

Article 15

In article 25, a new paragraph shall be added to read as follows:

“In case of absence or inability to work, the

Chief of Cabinet shall replace the Minister.”

Article 16

Article 26 shall be amended to read as follows:

“The Police Commissioner’s Office shall be established in the Ministry and it shall be supervised by the Police Commissioner.

The Office of the Police Commissioner shall consist of the Chief of Uniformed Police, the Chief of Crime Police and necessary support staff.

Under the overall supervision of the Minister of Interior, the Police Commissioner will conduct all police operations in the Canton in accordance with this law.

The Police Commissioner shall manage and supervise all police operations in the Canton, directly linked to the safety of persons, as well as the prevention and detection of crimes.

The responsibilities of the Police Commissioner are as follows:

– plans, manages and supervises all police activities on a daily basis;

– directly manages police activities and, in this connection, organises, plans, supervises, directs, and coordinates the work of the police;

– issues hiring decisions and decisions on termination of job contracts in conformity with this Law and after consultation with the Minister;

– deploys and removes employees to and from appropriate job positions in the Administration of Police, and issues deployment and removal Decisions. Before taking a

decision on the deployment or removal of supervisors in the Administration of Police, the Police Commissioner shall consult with the Minister and shall carefully take into consideration the latter's view;

– prepares budget proposals for the needs of the police and is responsible for all financial and material resources allocated to the police;

– prepares programs, information, analyses and other materials from the sphere of police work;

– informs the Minister on a regular basis on police activities undertaken;

– supervises the work of the Professional Standards Unit, comprising internal disciplinary control, internal inspections and audits, and policy review and development."

Article 17

In article 27, paragraph 2, the words "supervisory official in charge for uniformed police affairs" shall be replaced by the words "Chief of Uniformed Police".

Article 18

Article 28, paragraph 1, shall be amended to read as follows:

"A candidate for the post of Police Commissioner must have at least ten years of police experience in supervisory positions (excluding the period 1 March 1992 – 14 December 1995) and proven ability to manage complex operations. For the purposes of this law, "police supervisory position" shall be understood to mean the rank of Senior Inspector and above. Additionally, s/he shall have the minimum rank of Chief Inspector of Police and s/he must have spent at least three years in that rank. Candidates for the post of Police Commissioner who have been refused provisional authorisation or certification by UNIPTF shall not be eligible."

Article 19

Article 37 shall be amended to read as follows:

“While performing duties and tasks of the police, authorised official persons have special duties and authorities regulated by this law.

Authorised official persons are employees who directly perform operational duties and tasks within the authority of the Ministry, and other employees whose duties and tasks are directly related to performance of such duties and tasks.

The Book of Regulations on Internal Organisation and Systematisation of the Ministry regulates who is considered to be an authorised official person.

Authorised official persons shall be issued with an identification card and a badge.

Authorised official persons shall be obliged to wear a uniform when carrying out police duties such as maintaining public peace and order, traffic and road safety or carrying out other duties according to the regulations on police conduct. Authorisedofficial persons may perform such tasks in plain clothes by the order of the Police Commissioner.

Authorized officials in the Ministry shall have ranks. The manner in which they shall be awarded such ranks and by which they shall lose such ranks shall be determined by the Government.”

Article 20

In Article 41, paragraph 1, the words “,or the person he designates for that purpose”, shall be replaced by the words “, or his designate, and the Police Commissioner” .

Article 21

In article 145, after paragraph 1, the following paragraph shall be added to read as follows:

“In case of natural disasters, epidemics and other extraordinary situations, the Federation Ministry or the Ministry of Interior of another Canton may ask for help from the Ministry of Interior of Western-Herzegovina Canton, just as the Ministry of Interior of Western-Herzegovina Canton may ask for help from them, concerning resources, equipment and personnel”.

Article 22

Article 147 shall be amended to read as follows:

“The conditions for hiring authorized official persons shall be regulated by a Book of Rules promulgated by the Minister.”

Article 23

Article 150 shall be deleted.

Article 24

Article 151 shall be deleted.

Article 25

Article 154 shall be deleted.

Article 26

Article 160 shall be amended to read as follows:

“In case of necessity to complete urgent duties or tasks, interruption of the annual leave of an employee of the Ministry may be authorized by the Police Commissioner for those under his chain of command and for other employees by the Minister or an employee authorized by him.”

Article 27

Article 178 shall be amended to read as follows:

“The performance evaluation of authorized official persons shall be regulated by a Book of Rules promulgated by the Minister.”

Article 28

Article 180 shall be amended to read as follows:

“The procedure for determining the disciplinary and material responsibility of the Ministry’s employees shall be determined by the Book of Rules on Disciplinary and Material Accountability.”

Article 29

Article 181 shall be amended to read as follows:

“A Public Complaints Bureau shall be established within the Ministry of Internal Affairs to monitor and oversee the internal disciplinary mechanism relating to allegations of misconduct of Ministry employees. The duties and responsibilities of the Bureau shall be determined by the Government.”

Article 30

Article 182 shall be amended to read as follows:

“Decisions on temporary suspension are brought by the Police Commissioner for employees under his chain of command and for other employees by the Minister or an employee authorized by him.”

Article 31

Articles 183 up to and including 192 shall be deleted.

Article 32

Article 193 shall be amended to read as follows:

"Except in cases regulated by law on the working relationship of administrative agencies, the employment of an authorized official person is also terminated in the following cases:

1. if he/she no longer meets the requirements on the basis of which he/she was hired;

2. if he/she refuses to perform assigned duties and tasks;

3. if he/she refuses to carry out a legal order, issued in order to perform tasks and duties within the authority of the Ministry;

4. if it is established that he/she cannot meet the requirements for the assigned tasks in his/her performance, expertise and other capabilities;

5. or, if she/he does not achieve the required results.

In cases from item 1 through 5 of this article, the employee concerned shall be terminated on the day the decision on termination of employment is delivered."

Article 33

Article 194 shall be deleted.

Article 34

Article 198 shall be amended to read as follows:

"The Minister is authorized to issue regulations on the following:

– assignment of tasks and duties of authorized official

persons of the Ministry,

– use of means of force and firearms by other authorized official persons of the Ministry,

– identification of authorized official persons of the Ministry (form and its contents, issuance procedure, validity period and method of record keeping on identity cards of authorized official persons),

– programme and manner of taking professional examinations as well as the expenses related to taking professional examinations in the Ministry,

– material performance of weapons and equipment in the Ministry,

– expiry period of uniforms,

– weapons and equipment of the police and other Ministry employees,

– other regulations within the competence of the Ministry”.

Article 35

This Law shall enter into force on 6 December 2002and shall be published without delay in the Official Gazette of Western-Herzegovina Canton.