Annex 6

Agreement on Human Rights

The Republic of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and the Republika Srpska (the "Parties") have agreed as follows:

Chapter One: Respect for Human Rights

Article I: Fundamental Rights and Freedoms

The Parties shall secure to all persons within their jurisdiction the highest level of internationally recognized human rights and fundamental freedoms, including the rights and freedoms provided in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols and the other international agreements listed in the Appendix to this Annex. These include:

1. The right to life.
2. The right not to be subjected to torture or to inhuman or degrading treatment or punishment.
3. The right not to be held in slavery or servitude or to perform forced or compulsory labor.
4. The rights to liberty and security of person.
5. The right to a fair hearing in civil and criminal matters, and other rights relating to criminal proceedings.
6. The right to private and family life, home, and correspondence.
7. Freedom of thought, conscience and religion.

8. Freedom of expression.
9. Freedom of peaceful assembly and freedom of association with others.
10. The right to marry and to found a family.
11. The right to property.
12. The right to education.
13. The right to liberty of movement and residence.
14. The enjoyment of the rights and freedoms provided for in this Article or in the international agreements listed in the Annex to this Constitution secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Chapter Two: The Commission on Human Rights

Part A: General

Article II: Establishment of the Commission

1. To assist in honoring their obligations under this Agreement, the Parties hereby establish a Commission on Human Rights (the “Commission”). The Commission shall consist of two parts: the Office of the Ombudsman and the Human Rights Chamber.
2. The Office of the Ombudsman and the Human Rights Chamber shall consider, as subsequently described:
    a. alleged or apparent violations of human rights as provided in the European Convention for the Protection of Human Rights and Fundamental

Freedoms and the Protocols thereto, or

b. alleged or apparent discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status arising in the enjoyment of any of the rights and freedoms provided for in the international agreements listed in the Appendix to this Annex, where such violation is alleged or appears to have been committed by the Parties, including by any official or organ of the Parties, Cantons, Municipalities, or any individual acting under the authority of such official or organ.

3. The Parties recognize the right of all persons to submit to the Commission and to other human rights bodies applications concerning alleged violations of human rights, in accordance with the procedures of this Annex and such bodies. The Parties shall not undertake any punitive action directed against persons who intend to submit, or have submitted, such allegations.

Article III: Facilities, Staff and Expenses

1. The Commission shall have appropriate facilities and a professionally competent staff. There shall be an Executive Officer, appointed jointly by the Ombudsman and the President of the Chamber, who shall be responsible for all necessary administrative arrangements with respect to facilities and staff. The Executive Officer shall be subject to the direction of the Ombudsman and the President of the Chamber insofar as concerns their respective administrative and professional office staff.
2. The salaries and expenses of the Commission and its staff shall be determined jointly by the Parties and shall be borne by Bosnia and Herzegovina. The salaries

and expenses shall be fully adequate to implement the Commission's mandate.

3. The Commission shall have its headquarters in Sarajevo, including both the headquarters Office of the Ombudsman and the facilities for the Chamber. The Ombudsman shall have at least one additional office in the territory of the Federation and the Republika Srpska and at other locations as it deems appropriate. The Chamber may meet in other locations where it determines that the needs of a particular case so require, and may meet at any place it deems appropriate for the inspection of property, documents or other items.
4. The Ombudsman and all members of the Chamber shall not be held criminally or civilly liable for any acts carried out within the scope of their duties. When the Ombudsman and members of the Chamber are not citizens of Bosnia and Herzegovina, they and their families shall be accorded the same privileges and immunities as are enjoyed by diplomatic agents and their families under the Vienna Convention on Diplomatic Relations.
5. With full regard for the need to maintain impartiality, the Commission may receive assistance as it deems appropriate from any governmental, international, or non-governmental organization.

Part B: Human Rights Ombudsman

Article IV: Human Rights Ombudsman

1. The Parties hereby establish the Office of the Human Rights Ombudsman (the "Ombudsman").
2. The Ombudsman shall be appointed for a non-renewable term of five years by the Chairman- in-Office of the Organization for Security and Cooperation in Europe

(OSCE), after consultation with the Parties. He or she shall be independently responsible for choosing his or her own staff. Until the transfer described in Article XIV below, the Ombudsman may not be a citizen of Bosnia and Herzegovina or of any neighboring state. The Ombudsman appointed after that transfer shall be appointed by the Presidency of Bosnia and Herzegovina.

3. Members of the Office of the Ombudsman must be of recognized high moral standing and have competence in the field of international human rights.
4. The Office of the Ombudsman shall be an independent agency. In carrying out its mandate, no person or organ of the Parties may interfere with its functions.

Article V: Jurisdiction of the Ombudsman

1. Allegations of violations of human rights received by the Commission shall generally be directed to the Office of the Ombudsman, except where an applicant specifies the Chamber.
2. The Ombudsman may investigate, either on his or her own initiative or in response to an allegation by any Party or person, non-governmental organization, or group of individuals claiming to be the victim of a violation by any Party or acting on behalf of alleged victims who are deceased or missing, alleged or apparent violations of human rights within the scope of paragraph 2 of Article II. The Parties undertake not to hinder in any way the effective exercise of this right.
3. The Ombudsman shall determine which allegations warrant investigation and in what priority, giving particular priority to allegations of especially severe or systematic violations and those founded on alleged discrimination on prohibited grounds.
4. The Ombudsman shall issue findings and conclusions promptly after concluding an investigation. A Party identified as violating human rights shall, within a

specified period, explain in writing how it will comply with the conclusions.

5. Where an allegation is received which is within the jurisdiction of the Human Rights Chamber, the Ombudsman may refer the allegation to the Chamber at any stage.
6. The Ombudsman may also present special reports at any time to any competent government organ or official. Those receiving such reports shall reply within a time limit specified by the Ombudsman, including specific responses to any conclusions offered by the Ombudsman.
7. The Ombudsman shall publish a report, which, in the event that a person or entity does not comply with his or her conclusions and recommendations, will be forwarded to the High Representative described in Annex 10 to the General Framework Agreement while such office exists, as well as referred for further action to the Presidency of the appropriate Party. The Ombudsman may also initiate proceedings before the Human Rights Chamber based on such Report. The Ombudsman may also intervene in any proceedings before the Chamber.

Article VI: Powers

1. The Ombudsman shall have access to and may examine all official documents, including classified ones, as well as judicial and administrative files, and can require any person, including a government official, to cooperate by providing relevant information, documents and files. The Ombudsman may attend administrative hearings and meetings of other organs and may enter and inspect any place where persons deprived of their liberty are confined or work.
2. The Ombudsman and staff are required to maintain the confidentiality of all confidential information obtained, except where required by order of the Chamber, and shall treat all documents and files in accordance with applicable rules.

Part C: Human Rights Chamber

Article VII: Human Rights Chamber

1. The Human Rights Chamber shall be composed of fourteen members.
2. Within 90 days after this Agreement enters into force, the Federation of Bosnia and Herzegovina shall appoint four members and the Republika Srpska shall appoint two members. The Committee of Ministers of the Council of Europe, pursuant to its resolution (93)6, after consultation with the Parties, shall appoint the remaining members, who shall not be citizens of Bosnia and Herzegovina or any neighboring state, and shall designate one such member as the President of the Chamber.
3. All members of the Chamber shall possess the qualifications required for appointment to high judicial office or be jurists of recognized competence. The members of the Chamber shall be appointed for a term of five years and may be reappointed.
4. Members appointed after the transfer described in Article XIV below shall be appointed by the Presidency of Bosnia and Herzegovina.

Article VIII: Jurisdiction of the Chamber

1. The Chamber shall receive by referral from the Ombudsman on behalf of an applicant, or directly from any Party or person, non-governmental organization, or group of individuals claiming to be the victim of a violation by any Party or acting on behalf of alleged victims who are deceased or missing, for resolution or decision

applications concerning alleged or apparent violations of human rights within the scope of paragraph 2 of Article II.

2. The Chamber shall decide which applications to accept and in what priority to address them. In so doing, the Chamber shall take into account the following criteria:
    a. Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted and that the application has been filed with the Commission within six months from such date on which the final decision was taken.
    b. The Chamber shall not address any application which is substantially the same as a matter which has already been examined by the Chamber or has already been submitted to another procedure or international investigation or settlement.
    c. The Chamber shall also dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or an abuse of the right of petition.
    d. The Chamber may reject or defer further consideration if the application concerns a matter currently pending before any other international human rights body responsible for the adjudication of applications or the decision of cases, or any other Commission established by the Annexes to the General Framework Agreement.
    e. In principle, the Chamber shall endeavor to accept and to give particular priority to allegations of especially severe or systematic violations and those founded on alleged discrimination on prohibited grounds.
    f. Applications which entail requests for provisional measures shall be reviewed as a matter of priority in order to determine (1) whether they should be accepted and, if so (2) whether high priority for the scheduling of proceedings on the provisional

measures request is warranted.

3. The Chamber may decide at any point in its proceedings to suspend consideration of, reject or strike out, an application on the ground that (a) the applicant does not intend to pursue his application; (b) the matter has been resolved; or (c) for any other reason established by the Chamber, it is no longer justified to continue the examination of the application; provided that such result is consistent with the objective of respect for human rights.

Article IX: Friendly Settlement

1. At the outset of a case or at any stage during the proceedings, the Chamber may attempt to facilitate an amicable resolution of the matter on the basis of respect for the rights and freedoms referred to in this Agreement.
2. If the Chamber succeeds in effecting such a resolution it shall publish a Report and forward it to the High Representative described in Annex 10 to the General Framework Agreement while such office exists, the OSCE and the Secretary General of the Council of Europe. Such a Report shall include a brief statement of the facts and the resolution reached. The report of a resolution in a given case may, however, be confidential in whole or in part where necessary for the protection of human rights or with the agreement of the Chamber and the parties concerned.

Article X: Proceedings before the Chamber

1. The Chamber shall develop fair and effective procedures for the adjudication of applications. Such procedures shall provide for appropriate written pleadings and, on the decision of the Chamber, a hearing for oral argument or the presentation of evidence. The Chamber shall have

the power to order provisional measures, to appoint experts, and to compel the production of witnesses and evidence.

2. The Chamber shall normally sit in panels of seven, composed of two members from the Federation, one from the Republika Srpska, and four who are not citizens of Bosnia and Herzegovina or any neighboring state. When an application is decided by a panel, the full Chamber may decide, upon motion of a party to the case or the Ombudsman, to review the decision; such review may include the taking of additional evidence where the Chamber so decides. References in this Annex to the Chamber shall include, as appropriate, the Panel, except that the power to develop general rules, regulations and procedures is vested in the Chamber as a whole.
3. Except in exceptional circumstances in accordance with rules, hearings of the Chamber shall be held in public.
4. Applicants may be represented in proceedings by attorneys or other representatives of their choice, but shall also be personally present unless excused by the Chamber on account of hardship, impossibility, or other good cause.
5. The Parties undertake to provide all relevant information to, and to cooperate fully with, the Chamber.

Article XI: Decisions

1. Following the conclusion of the proceedings, the chamber shall promptly issue a decision, which shall address:
    a. whether the facts found indicate a breach by the Party concerned of its obligations under this Agreement; and if so
    b. what steps shall be taken by the Party to remedy such breach, including orders to cease and desist, monetary relief (including pecuniary and non-pecuniary injuries), and provisional measures.

2. The Chamber shall make its decision by a majority of members. In the event a decision by the full Chamber results in a tie, the President of the Chamber shall cast the deciding vote.
3. Subject to review as provided in paragraph 2 of Article X, the decisions of the Chamber shall be final and binding.
4. Any member shall be entitled to issue a separate opinion on any case.
5. The Chamber shall issue reasons for its decisions. Its decisions shall be published and forwarded to the parties concerned, the High Representative described in Annex 10 to the General Framework Agreement while such office exists, the Secretary General of the Council of Europe and the OSCE.
6. The Parties shall implement fully decisions of the Chamber.

Article XII: Rules and Regulations

The Chamber shall promulgate such rules and regulations, consistent with this Agreement, as may be necessary to carry out its functions, including provisions for preliminary hearings, expedited decisions on provisional measures, decisions by panels of the Chamber, and review of decisions made by any such panels.

Chapter Three: General Provisions

Article XIII: Organizations Concerned with Human Rights

1. The Parties shall promote and encourage the activities of non-governmental and international organizations for the protection and promotion of human rights.

2. The Parties join in inviting the United Nations Commission on Human Rights, the OSCE, the United Nations High Commissioner for Human Rights, and other intergovernmental or regional human rights missions or organizations to monitor closely the human rights situation in Bosnia and Herzegovina, including through the establishment of local offices and the assignment of observers, rapporteurs, or other relevant persons on a permanent or mission-by- mission basis and to provide them with full and effective facilitation, assistance and access.
3. The Parties shall allow full and effective access to non-governmental organizations for purposes of investigating and monitoring human rights conditions in Bosnia and Herzegovina and shall refrain from hindering or impeding them in the exercise of these functions.
4. All competent authorities in Bosnia and Herzegovina shall cooperate with and provide unrestricted access to the organizations established in this Agreement; any international human rights monitoring mechanisms established for Bosnia and Herzegovina; the supervisory bodies established by any of the international agreements listed in the Appendix to this Annex; the International Tribunal for the Former Yugoslavia; and any other organization authorized by the U.N. Security Council with a mandate concerning human rights or humanitarian law.

Article XIV: Transfer

Five years after this Agreement enters into force, the responsibility for the continued operation of the Commission shall transfer from the Parties to the institutions of Bosnia and Herzegovina, unless the Parties otherwise agree. In the latter case, the Commission shall continue to operate as provided above.

Article XV: Notice

The Parties shall give effective notice of the terms of this Agreement throughout Bosnia and Herzegovina.

Article XVI: Entry into Force

This Agreement shall enter into force upon signature.

For the Republic of Bosnia and Herzegovina

For the Federation of Bosnia and Herzegovina

For the Republika Srpska

Appendix: Human Rights Agreements

1. 1948 Convention on the Prevention and Punishment of the Crime of Genocide
2. 1949 Geneva Conventions I-IV on the Protection of the Victims of War, and the 1977 Geneva Protocols I-II thereto
3. 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, and the Protocols thereto
4. 1951 Convention relating to the Status of Refugees and the 1966 Protocol thereto
5. 1957 Convention on the Nationality of Married Women
6. 1961 Convention on the Reduction of Statelessness
7. 1965 International Convention on the Elimination of All Forms of Racial Discrimination
8. 1966 International Covenant on Civil and Political Rights and the 1966 and 1989 Optional Protocols thereto
9. 1966 Covenant on Economic, Social and Cultural Rights
10. 1979 Convention on the Elimination of All Forms of Discrimination against Women
11. 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
12. 1987 European Convention on the Prevention of Torture

and Inhuman or Degrading Treatment or Punishment
13. 1989 Convention on the Rights of the Child
14. 1990 Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
15. 1992 European Charter for Regional or Minority Languages
16. 1994 Framework Convention for the Protection of National Minorities