

Agreement on the Implementation of the Constituent Peoples' Decision of the Constitutional Court of Bosnia and Herzegovina

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I. Vital interest protection

Vital interest protection shall be provided through – the House of Peoples in the Federation of Bosnia and Herzegovina, and

– the Council of Peoples in Republika Srpska

Article 1.

The legislature

The legislative authority shall be exercised in the RS by the RSNA and the Council of Peoples and in the Federation by the House of Representatives and the House of Peoples.

In RS, Laws and other regulations which are approved in the

RSNA and which concern the issue of a vital national interest of any of the constituent peoples will enter into force only upon adoption by the Council of Peoples.

Incompatibility: No delegate of the RSNA / Federation House of Representatives / Municipal Council shall serve as a member of the Council of Peoples / House of Peoples.

Article 2.

Minimum number of representatives in the RSNA / Federation House of Representatives

A minimum number of 4 members of one constituent people shall be represented in the RSNA and the Federation House of Representatives.

Article 3.

Composition of the Council of Peoples and the House of Peoples and selection of members

The Council of Peoples and the House of Peoples shall be composed on a parity basis so that each constituent people shall have the same number of representatives.

A minimum number of 8 and a maximum number of 17 members shall come from a single constituent people. The Others shall be represented by a number not exceeding one half of the representatives of a single constituent people in the CoP and HoP respectively.

Others have the right to participate equally in the majority voting procedure.

RS (Council of Peoples)

Members of the Council of Peoples shall be elected by the respective caucus of the delegates of RSNA.

In the event that the number of delegates of one caucus in the Council of Peoples is higher than the number of delegate in the respective caucus of the RSNA this additional number of delegates shall be elected by a caucus formed for this purpose from delegates from the Municipal Assemblies of RS.

After the next municipal elections, the final manner of election of the members to the CoP shall be regulated by the RSNA and the CoP.

Federation (House of Peoples)

Cantonal Assemblies

Article 4.

Definition of vital interest:

Vital national interests of constituent peoples are defined as follows:

- exercise of the rights of constituent peoples to be adequately represented in legislative, executive and judicial bodies,
- identity of one constituent people,
- constitutional amendments,
- organisation of public authorities,
- equal rights of constituent peoples in the process of decision-making,
- education, religion, language, promotion of culture, tradition and cultural heritage,
- territorial organisation,
- public information system,

and other issues treated as of vital national interest if so claimed by 2/3 of one of the caucuses of the constituent peoples in the House of Peoples or Council of Peoples.

Article 5.

Parliamentary procedure for the protection of vital interests

Laws or other regulations or acts approved by vote by the RSNA will be sent and considered by the Council of Peoples if they relate to a vital interest as defined in Article 4.

Laws or other regulations or acts introduced into the Federation House of Representatives are also adopted in the Federation House of Peoples.

The Constitutional Courts of the Federation of Bosnia and Herzegovina and Republika Srpska shall each have a maximum of 9 members.

A Vital Interest Panel of the Constitutional Court of the Federation / RS shall be established deciding in the vital interest procedure as described below. All Vital Interest issues shall be considered by this panel.

The Vital Interest Panel shall be composed of 7 members, 2 from each constituent people and 1 from the group of Others. The judges shall be elected by the HoRep and HoP in the Federation and by the RSNA and CoP in the RS.

a. Procedure for laws related to a vital interest as defined in the list of Article 4

If more than one Chairman or Co-Chairman of the Council of Peoples / House of Peoples (CoP / HoP) claims that a law comes within the list of vital interests as defined in the list of Article 4 the law shall be put on the agenda of the CoP/HoP as vital interest issue.

If only one Chairman or Co-Chairman claims that the law falls within this list a 2/3rd majority of the respective caucus may declare the issue concerned to be an item within the list. In this case the procedure followed is the one outlined under Article 5.b below.

The Chairman and Co-Chairmen have one week within which to decide.

If a majority of each caucus represented in the House of Peoples / Council of Peoples vote in favour of such laws or other regulations or acts these are deemed to be adopted.

If the House of Peoples / Council of Peoples agrees on amendments, the law, regulation or act is resubmitted to the House of Representatives / RSNA for approval.

If no agreement can be reached in the House of Peoples / Council of Peoples or if approval is not given to proposed amendments, a Joint Commission composed of representatives of the House of Representatives/ RSNA and the House of Peoples / Council of Peoples shall be established. The Joint Commission is composed on a parity basis and decides by consensus. It shall seek to achieve the harmonization of the terms of the law. If the terms are harmonized the law shall be deemed to be adopted.

If no such harmonisation can be effected the law shall fail and the document shall be returned to the proponent for a new procedure. In that event the proponent may not re-submit the original law, regulation or act.

b. Procedure for laws related to a vital national interest if so decided by 2/3rd of one of the caucuses of the constituent peoples in the House of Peoples / Council of Peoples

In case 2/3rd of one of the caucuses of the constituent peoples in the House of Peoples / Council of Peoples decides that a law, act or regulation affects a vital interest the law shall be considered by the House of Peoples / Council of Peoples.

If a majority of each caucus represented in the House of Peoples / Council of Peoples vote in favour of such laws or other regulations or acts these are deemed to be adopted.

If the House of Peoples / Council of Peoples agrees on amendments, the law, regulation or act is resubmitted to the House of Representatives / RSNA for approval.

If no harmonization can be established by the Joint Commission referred to in lit a. above, the Constitutional Court of the Federation of Bosnia and Herzegovina / Republika Srpska shall be addressed to decide finally whether the law in question relates to a vital interest of a constituent people.

A Vital Interest Panel of the Constitutional Court of the RS / Federation shall decide by a 2/3rd majority within one week on the admissibility of such cases and within one month on the merits of cases held to be admissible.

In the event that the Article 5.b procedure has been triggered by a 2/3rd majority of one of the caucuses the vote of at least two judges is needed for the Court to decide that it is a vital interest.

In the event that the Court decides in favor of a vital interest the law shall fail and the document shall be returned to the proponent for a new procedure. In that event the proponent may not re-submit the original law, regulation or act.

In the event that the Court decides that no vital interest is involved the law is deemed to be adopted / shall be adopted by simple majority.

II. Distribution of key political functions

– PM and Deputy Prime Ministers may not come from the same constituent people.

– Out of the following positions not more than 2 may be filled by representatives of any one constituent people or of the

group of Others:

- 1) Prime Minister
 - 2) Speaker of the House of Representatives / RSNA
 - 3) Speaker of the House of Peoples / Council of Peoples
 - 4) President of Supreme Court
 - 5) President of Constitutional Court
 - 6) Public Prosecutors
- Presidents of Entities

The President shall have two Vice-Presidents coming from different constituent peoples. They shall be elected according to the Entity constitutions.

III. Minimum Representation in the Government of the Federation of Bosnia and Herzegovina and of the Republika Srpska

The Government shall be elected by the House of Representatives / RSNA.

For a transitional period, until Annex 7 is fully implemented,

the RS Government (Prime Minister and 16 ministers) shall be composed of 8 Serb, 5 Bosniac and 3 Croat ministers. One Other may be nominated by the Prime Minister from the quota of the largest constituent people. There shall be additionally a Prime Minister who shall have two Deputy Prime Ministers from different constituent peoples selected from among the Ministers; and

the Federation Government (Prime Minister and 16 ministers) shall be composed of 8 Bosniac, 5 Croat and 3 Serb ministers.

One Other may be nominated by the Prime Minister from the quota of the largest constituent people. There shall be additionally a Prime Minister who shall have two Deputy Prime Ministers from different constituent peoples selected from among the Ministers.

After Annex 7 is fully implemented, a minimum of 15% of the members of the Government must come from one constituent people. A minimum of 35% of the members of the Government must come from two constituent peoples. One member of the Government must come from the group of the Others.

IV. Proportionate representation in all public authorities, including courts

Constituent peoples and members of the group of Others shall be proportionately represented in public institutions in the Federation of Bosnia and Herzegovina and in Republika Srpska.

As a constitutional principle, such proportionate representation shall follow the 1991 census until Annex 7 is fully implemented, in line with the Civil Service Law of Bosnia and Herzegovina. Further and concrete specification of this general principle shall be implemented by Entity legislation. Such legislation shall include concrete time lines and shall develop the aforementioned principle in line with the regional ethnic structure in the Entities and the Cantons.

“Public institutions” as mentioned above are the ministries of the Federation Government, of the RS Government and of Cantonal Governments, municipal governments, Cantonal Courts in the Federation and District courts in Republika Srpska, and municipal courts in the Federation and Republika Srpska.

V. Final / transitional provisions

1. Harmonization of principles with regard to the Cantons of the Federation of Bosnia and Herzegovina

Within 9 months from the adoption of the amendments to the Entity constitutions, the principles contained in this document shall be applied to the Cantons of the Federation of Bosnia and Herzegovina.

Vital interest protection bodies shall be established in the Cantons and minimum representation has to be guaranteed with regard to the Cantonal Governments.

2. Tasks of the House of Peoples and the RS Constitutional Commission

As from the adoption of the amendments to the Entity constitutions, the House of Peoples of the Federation of Bosnia and Herzegovina and the RS Constitutional Commission (as established by the High Representative) shall follow the principles contained in this document.

3. Interpretation of this agreement

The High Representative is the final authority in the interpretation of this document until its full implementation by the parliaments of the Entities.