Decision Establishing the Police Restructuring 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 throughoutBosnia and Herzegovina and its Entities";

Recalling the Declaration of the Ministerial Meeting of the Steering Board of the Peace Implementation Council of 09 June 1998, in which the Steering Board stated, *inter alia*, that a multi-ethnic police is vital for providing a secure environment for returnees, displaced persons and all citizens;

Recalling further the Declaration of the Peace Implementation Council made at its main meeting in Madrid on 16 December 1998, in which the Peace Implementation Council, considered the establishment of the rule of law in Bosnia and Herzegovina, in which all citizens have confidence, as a prerequisite for a lasting peace and for a self-sustaining economy capable of attracting and retaining international and domestic investors;

Noting the Declaration in which the Peace Implementation Council of 24 May 2000, stated that "a democratically accountable police and independent judiciary are prerequisites for the Rule of Law and the full protection of human rights" and insisted that "the authorities complete the police restructuring process […] ";

Noting further the Statement by the President of the Security Council made at the 4661st meeting of the Security Council, held on 12 December 2002, welcoming the decision of the European Union to send a Police Mission to Bosnia and Herzegovina and inviting the European Union to keep it regularly informed as appropriate of the activities of such Mission, whilst reiterating that the primary responsibility for the further successful implementation of the Peace Agreement lies with the authorities in Bosnia and Herzegovina themselves;

Recalling the European Union and Western Balkans Summit Declaration of Thessaloniki made on 21 June 2003 whereby Bosnia and Herzegovina pledged full and unequivocal cooperation with the International Criminal Tribunal for the former Yugoslavia and recognized that providing justice for war crimes is a legal, political and moral imperative to which it was committed. Recalling further that Bosnia and Herzegovina also recognized in said declaration that organized crime constituted an obstacle to democratic stability, the rule of law, economic development and the development of civil

society and that combating organized crime was a major priority;

Having regard to the Communiqué by which the Steering Board of the Peace Implementation Council of 11 December 2003, *inter alia*, expressed support for the OHR's priorities in 2004 and welcomed the High Representative's intention to focus on assisting the BiH authorities in ensuring the effective operation of State level institutions and welcomed the intention of the High Representative to focus on improving the effectiveness of the police in BiH, in close co-operation with EUPM.

Conscious that eventual visa free access for the citizens of Bosnia and Herzegovina to countries of the European Union is contingent upon, *inter alia*, the implementation of reforms in areas such as the strengthening of the rule of law, combating organized crime, corruption and illegal migration and strengthening administrative capacity in border control and security of documents;

Having regard further to the Report of the Commission of the European Communities of 18 November 2003 on the preparedness of Bosnia and Herzegovina to negotiate a Stabilisation and Association Agreement with the European Union in which it is stressed that, in order to fight crime, further reform and enhanced State-level enforcement capacity are needed in Bosnia and Herzegovina.

Taking into account the Communiqué by the Steering Board of the Peace Implementation Council of 1 April 2004, in which the Steering Board expressed its support for a restructuring of the BiH police, guided by the highest European standards and the need to ensure the financial sustainability of the police sector, welcoming the implementation of a functional review of the BiH police forces, and supporting the establishment of a Police Restructuring Commission.

Conscious that there is a need for depoliticized police forces that operate in accordance with the highest European standards;

Recalling the statement of the Chairman of the Council of Ministers of Bosnia and Herzegovina , made on 20 May 2004 by which he indicated that a serious restructuring of police forces in Bosnia and Herzegovina is necessary and urgent;

Further noting the Istanbul Summit Communiqué issued on 28 June 2004 by which the Heads of State and Government participating in the meeting of the North Atlantic Council expressed their concerns that Bosnia and Herzegovina has failed to live up to its obligation to cooperate fully with ICTY which constitutes a fundamental requirement for the country to join Partnership for Peace and look for systemic changes necessary to develop effective security and law enforcement structures.

Having considered, noted and borne in mind all the matters aforesaid, the High Representative hereby issues the following:

DECISION
Establishing the Police Restructuring Commission

Article 1

(1) The Police Restructuring Commission of Bosnia and Herzegovina (hereinafter “the Commission”), which is hereby established, shall be responsible, as directed by the Chairman of the said Commission, for proposing a single structure of policing for Bosnia and Herzegovina under the overall political oversight of a ministry or ministries in the Council of Ministers.

(2) The Commission shall, *inter alia*, undertake a review of policing in BiH and prepare, as appropriate, policies, legislation, amendments to constitutions, amendments to legislation and other legal acts as may hereafter be required to be enacted by the Parliamentary Assembly of Bosnia and Herzegovina, by the legislatures of the Federation of Bosnia and Herzegovina, Republika Srpska, the Brcko District and the Cantons respectively, as well as the BiH Council of Ministers, the governments of the Federation of Bosnia and Herzegovina, the Cantons, the Brcko District Government, and of Republika Srpska, in the fields hereinafter identified.

(3) The Commission shall also be responsible for drafting such other regulations and administrative acts as it deems necessary in order to provide for implementation of such legislation.

Article 2

The Commission shall fulfill its mandate in accordance with the following principles:

1. Ensuring that policing in Bosnia and Herzegovina is structured in an efficient and effective manner;

2. Ensuring that the Institutions of Bosnia and Herzegovina are able to carry out fully and effectively their law enforcement responsibilities;

3. Ensuring that policing in Bosnia and Herzegovina is cost-effective and financially sustainable;

4. Ensuring that policing staffing levels and conditions in Bosnia and Herzegovina are in line with European best practice and cognizant of prevailing social factors;

5. Ensuring that policing in Bosnia and Herzegovina generally reflects the ethnic structure of the population of Bosnia and Herzegovina ;

6. Ensuring that policing in Bosnia and Herzegovina is adequately protected from improper political interference;

7. Ensuring that policing will be discharged in accordance with democratic values, international human rights standards and best European practices.

8. Ensuring that policing will be delivered through inclusive partnership with the community and civil society;

9. Ensuring that policing will be discharged within a clear framework of accountability to the law and the community;

10. Ensuring that the effective capacity to investigate war crimes is guaranteed throughout the entire territory of Bosnia and Herzegovina;

11. Ensuring the examinations of necessary linkages to broader justice system matters.

12. Ensuring that Bosnia and Herzegovina as a state can effectively participate as a partner with other EU states in common actions, planning and operations on internal affairs matters.

Article 3

(1) The Commission shall be composed of twelve (12) members and seven (7) associate members.

(2) There shall be a Chairman of the Commission and a Deputy Chairman of the Commission appointed by the High Representative.

(3) In addition to the members referred to in Paragraph 2 of this Article, the Commission shall include the following members:

a) The Minister of Security of BiH;

b) The Minister of Interior of the Federation of Bosnia and Herzegovina who shall also serve as representative of the FBiH Prime Minister;

c) The Minister of Interior of the Republika Srpska who shall also serve at the representative of the Prime Minister of the Republika Srpska;

d) Two (2) Ministers of Interior of Cantons of the Federation of Bosnia and Herzegovina;

e) A Mayor from the Federation of Bosnia and Herzegovina;

f) A Mayor from the Republika Srpska;

g) The Mayor of the Brcko District;

h) A representative of the Chairman of the Council of Ministers of Bosnia and Herzegovina;

i) The EUPM Commissioner.

(4) The members referred to in item d) of Paragraph 3 of this Article shall be nominated by the House of Peoples of the Parliament of the Federation of Bosnia and Herzegovina within fifteen (15) days following the entry into force of this Decision and shall represent all cantonal Ministries of Interior.

(5) The members referred to in item e) and f) of Paragraph 3 of this Article shall be nominated respectively by the Association of municipalities and cities of the Federation of Bosnia and Herzegovina and the Association of municipalities and cities of the Republika Srpska within fifteen (15) days following the entry into force of this Decision.

(6) In addition to the members of the Commission referred to in this Article, the Commission shall be composed of the following associate members:

a) The Chief Prosecutor of Bosnia and Herzegovina ;

b) The Director of the State Investigation and Protection Agency of Bosnia and Herzegovina;

c) The Director of the State Border Service of Bosnia and Herzegovina;

d) The Director of the Office for Co-operation with Interpol;

e) The Director of the Federation Administration of Police;

f) The Director of Police of the Republika Srpska;

g) A Cantonal Police Commissioner.

(7) The associate member referred to in item g) of Paragraph 6 of this Article shall be nominated by all the FBiH Cantonal Police Commissioners within fifteen (15) days following the entry into force of this Decision.

(8) Members other than those referred to in Paragraph 2 and item i) Paragraph 3 of this Article or Associate Members of the Commission or any person participating in the work of the Commission or working groups referred to in Article 6 of this Decision shall participate *ex officio* in the work of said Commission or working groups.

(9) Members of the Commission or Associate Members of the Commission shall, at all times, ensure that they are present or represented by a representative entrusted with full powers of representation including the power to take decisions on their behalf at the Commission's sessions or at the sessions of the working groups referred to in Article 6 of this Decision.

(10) The High Representative shall confirm the nominations to the Commission referred to in items d), e), f) and h) of

Paragraph 3 and item g) of Paragraph 6 of this Article.

Article 4

The High Representative, after consultations with the Chairman, may appoint observers to the Commission, as he deems necessary for the fulfillment of the mandate of the Commission as provided for in this Decision.

Article 5

(1) The Chairman shall be responsible for directing the work of the Commission. S/he shall prepare a schedule of work and working procedures, as well as call meetings of the Commission, which will usually be held in Sarajevo but may also be held as required at locations throughout Bosnia and Herzegovina .

(2) The Chairman may call for experts to attend meetings of the Commission in order to provide relevant information, as s/he deems necessary for the fulfillment of the mandate of the Commission as provided for in this Decision.

(3) The Chairman may request police agencies or other government bodies to provide information on operational, financial and administrative policies and resources deemed necessary to further the work of the Commission.

(4) The Deputy Chairman will act as the Chairman in her/his absence.

Article 6

(1) The Chairman may establish working groups as s/he deems necessary for the fulfillment of the mandate of the Commission as provided for in this Decision.

(2) The Chairman shall appoint the Chairmen of said working groups.

Article 7

No quorum shall be required in order to hold a meeting of the Commission or the working groups established pursuant to Article 6 of this Decision.

Article 8

The Commission shall have such support staff and technical assistance as may hereinafter be determined.

Article 9

(1) The Commission shall, by 31 December 2004, prepare a final report for the Chair of the Council of Ministers and the High Representative detailing the work of the Commission with recommendations on how to fulfill the mandate of the Commission in accordance with the principles referred to in Article 2 of this Decision. The High Representative may extend said deadline at the request of the Chairman.

(2) The final report of the Commission shall include, as appropriate, proposals of amendments to the constitutions of Bosnia and Herzegovina and the Entities, the Statute of the Brcko District, proposals of State-level, Entity-level and Cantonal-level legislation as well as legislation of the Brcko District, proposals of amendments to legislation, proposals of agreements and memoranda of understanding and policy documents addressing all matters within the remit of the Commission.

Article 10

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

Sarajevo, 2 July 2004

Paddy Ashdown