

Decision amending the BiH Election Law

Decision amending the BiH Election Law, defining ineligibility of officials dismissed by the HR, the PEC and the EASC for personal violations, COMSFOR and the IPTF Commissioner, and barring those parties in which persons dismissed by the HR and the PEC and EASC for personal violations hold central party positions from certifying for participation in the elections

In the exercise of the powers vested in me 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 which "may include actions against persons holding public office or officials...who are found by the High Representative to be in violation of legal commitments made under the Peace Agreement or the terms for its implementation";

Noting that in paragraph X:4. of the Annex to the Declaration of the Peace Implementation Council made at Madrid on 16 December 1998 it was stated that the Council acknowledged that leaders whom the High Representative bars from official office "may also be barred from running in elections and from any other elective or appointive public office and from office within political parties until further notice."

Taking into account the mandate previously entrusted to the Provisional Election Commission under Article III of the Annex 3 to the General Framework Agreement for Peace in Bosnia and Herzegovina and the Rules and Regulations subsequently adopted thereafter which have provided that persons who were removed from office under the General Framework Agreement for Peace in Bosnia and Herzegovina were not permitted to be a candidate in the elections or hold any public elective or appointed office";

Considering that in Article 1.13 of the Election Law of Bosnia and Herzegovina it is stated that the application for certification to participate in the elections shall include a statement signed by the President of a political party stating that the activities of the political party will comply with the General Framework Agreement for Peace in Bosnia and Herzegovina;

Further Considering the importance and necessity to advance the above mentioned provisions, in order to prevent further obstruction to the implementation of the General Framework Agreement for Peace,

Recognising the provisions adopted by the Parliamentary Assembly of Bosnia and Herzegovina in the Election Law;

For the reasons herein set out I hereby issue the following:

DECISION

Amending the Election Law of Bosnia and Herzegovina by the insertion into Chapter 18 of the following two articles after Article 18.9;

“Article 18.9A

Until the High Representative’s mandate terminates or he or she so decides the exclusions in the following four paragraphs shall have effect:

No person who has been removed by the Provisional Election Commission or the Election Appeals Sub-Commission, for having personally obstructed the implementation of the General Framework Agreement for Peace or violated the Provisional Election Commission *Rules and Regulations* shall be permitted to be a candidate in the elections or hold an elected mandate or an appointed office.

No person who has been removed from public office by the High Representative shall be permitted to be a candidate in the elections or hold an elected mandate or an appointed office.

No military officer or former military officer who has been removed from service pursuant to Chapter 14 of the *Instructions to the Parties* issued by COMSFOR under Article VI Paragraph 5 of Annex 1A to the General Framework Agreement for Peace, shall be permitted to be a candidate in the elections or hold an elected mandate or an appointed office.

No person who has been de-authorized or de-certified by the IPTF Commissioner for having obstructed the implementation of the General Framework Agreement for Peace, shall be permitted to be a candidate in the elections or hold an elected mandate or an appointed office.

Article 18.9B

Until the High Representative’s mandate terminates or he or she so decides the Election Commission of Bosnia and Herzegovina shall ensure that the application for certification of any political party and any other documents submitted under Article 4.3 of this Law and under the internal regulations of the Election Commission, do not include a person referred to in Article 18.9A, paragraphs 2 and 3.

Should the documents referred to in paragraph 1 of this Article show that such a person holds a central party position, that political party shall not be eligible for certification.”

Commencement and Publication

This Decision shall come into effect forthwith and shall be published without delay in the Official Gazettes of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, the Republica Srpska and of Brcko District.

26 March 2002

Wolfgang Petritsch
High Representative