

Decision amending the BiH Election Law in accordance with the new Entity Constitutions

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;

Recognizing the provisions adopted by the Parliamentary Assembly of Bosnia and Herzegovina in the Election Law as published in the BiH Official Gazette 23/01 of 19 September 2001, and amended by my Decision 139/02 of 27 March 2002 as published in the BiH Official Gazette no. 7/02;

Considering that in Article 1.14 of the Election Law of Bosnia and Herzegovina, as amended by my Decision 148/02 of 18 April 2002, it is stated inter alia that the elections at all levels of authority in Bosnia and Herzegovina shall be held on the first Saturday in October and that the Election Commission of Bosnia and Herzegovina shall, at least one hundred and sixty nine (169) days prior to the conduct of the first elections under the provisions of the Election Law of Bosnia and Herzegovina, notify all competent authorities at all levels when an election shall be conducted;

Observing that the Steering Board of the Peace Implementation Council at its session held in Brussels on February 28, 2002 underlined the responsibility of the Bosnian political leaders and institutions to ensure that the Bosnian people are able to exercise their democratic rights in the free, fair and democratic elections;

With the objective of guaranteeing the holding of such free, fair and democratic elections on October 5 2002;

Mindful of both of the urgency and of the evident necessity for expedition in the process of making timely preparations of the upcoming October 5, 2002 elections;

Having considered and borne in mind all the matters aforesaid, I hereby issue the following:

DECISION

enacting the law on amendments to the Election Law of Bosnia and Herzegovina

The Law which follows shall come into effect as provided for in Article 16 thereof on an interim basis, until such time as the Parliamentary Assembly of Bosnia and Herzegovina adopts this Law in due form, without amendment and with no conditions attached.

THE LAW ON AMENDMENTS TO THE ELECTION LAW OF BOSNIA AND HERZEGOVINA

Article 1

In Article 1.8, paragraph 4 the words "President and Vice President of the Federation of Bosnia and Herzegovina" and "President and Vice President of Republika Srpska," shall be changed to "President and Vice Presidents of the Federation of Bosnia and Herzegovina" and "President and Vice Presidents of Republika Srpska,"

Article 2

In Article 4.19 the following new paragraph 5 shall be inserted:

"The candidates lists for the House of Representatives of the Federation of Bosnia and Herzegovina, the President and Vice Presidents of Republika Srpska, and the National Assembly of Republika Srpska shall indicate to which constituent people, or the group of Others, the candidates declare to belong."

The existing paragraph 5 will become paragraph 6.

Article 3

In Article 10.1, paragraph 1, the words "one hundred forty (140) members" shall be deleted and the following words shall be inserted: "ninety eight (98) members".

Article 4

In Article 10.1 the following new paragraph 3 shall be inserted:

"A minimum number of four (4) members of each constituent people shall be represented in the Federation House of Representatives."

The existing paragraph 3 will become paragraph 4.

Article 5

In Article 10.2, paragraph 2, the words "one hundred forty (140) mandates" shall be deleted and the following words shall be inserted: "ninety eight (98) mandates".

Article 6

In Article 10.2, paragraph 3, the words "a minimum of four (4) members" shall be deleted and the following words shall be inserted: "a minimum of three (3) members".

Article 7

In Article 10.6, new paragraphs 2 and 3 shall be inserted and read as follows:

"Unless each constituent people receives a minimum of four (4) mandates, the later compensatory mandate(s) shall be given to the candidate(s) of the relevant constituent people(s) from the compensatory list of the political party or coalition having received the highest number of votes and having eligible candidates of the relevant constituent people left on the list.

If a political party or coalition does not have enough eligible candidates of the relevant constituent people on its compensatory list to fill the seats allocated to it, the mandate shall be transferred to the party or coalition's list having received the highest number of votes and having such candidates left on its compensatory list(s). If no candidate from the relevant constituent people(s) can be found on any compensatory lists, the seat(s) shall be transferred to the party or coalition's list having received the highest number of votes and having such candidates left on another list(s) in accordance with Article 9.9, paragraph 2 of this law."

Article 8

After Article 10.8, a new Article 10.8 A shall be inserted:

"When allocating mandates to fill mandates terminated in accordance with article 1.10 of this law, a minimum representation of four (4) members of each constituent people shall be ensured.

The following rules will apply and supercede the solutions specified in Articles 9.10 and 9.11 of this Law whenever the application of these articles would bring the representation of a Constituent people below the minimum spelled out in Article 10.1 of this law:

1. If an elected independent candidate's mandate terminates, then the independent candidate's deputy shall succeed to the mandate held by the independent candidate in accordance with Article 10.8 of this law, provided that the deputy comes from the same constituent people as the independent candidate.

Should the deputy not come from the same constituent people, the vacancy shall be filled from the political party or coalition having received the highest number of votes in the same constituency and having eligible candidates of the relevant constituent people left on its list in accordance with article 9.9, paragraph 2 of this law.

If the political party or coalition does not have enough eligible candidates on the list in the same constituency to fill seats allocated to it, the mandate shall be transferred to the party or coalition's list having received the highest number of votes and having such candidates left on its list(s) in any other constituency in accordance with article 9.9, paragraph 2 of this law.

2. If an elected political party or coalition candidate's mandate terminates, then the mandate shall be given to the next candidate from the same constituency list and belonging to the same constituent people as the original candidate in accordance with Article 9.9, paragraph 2 of this law.

Should there be no more candidates on the same constituency list belonging to the same constituent people, then the mandate shall be given to the list of the same political party or coalition in another constituency that received the highest number of votes, in accordance with Article 9.9, paragraph 2 of this law.

If there are no more candidates on any of the party or coalition's lists, then the mandate shall be given to the political party or coalition from the same constituency that received the highest number of votes and has eligible candidate(s) belonging to the same constituent people as the original candidate on its list, in accordance with Article 9.9, paragraph 2 of this law.

Should there be no more candidates from the same constituency belonging to the same constituent people as the original candidate, then the mandate shall be given to the political party or coalition in any of the constituencies, that has received the highest number of votes and has eligible candidates belonging to that constituent people in accordance with Article 9.9, paragraph 2 of this law.

3. If an elected political party or coalition candidate's compensatory mandate terminates, then the mandate shall be given to the candidate on the same compensatory mandate list who belongs to the same constituent people in accordance with Article 9.8 of this law.

Should there be no more eligible candidates belonging to the same constituent people on the same compensatory mandate list, then the mandate shall be given to the party or coalition that has received the highest number of votes and that has an eligible candidate belonging to the same constituent people on its compensatory mandate list. The mandate shall then be allocated in accordance with Article 9.8 of this law."

Article 9

In Article 11.1, after paragraph 1, new paragraphs 2 and 3 shall be added and read as follows:

"A minimum number of four (4) members of each constituent people shall be represented in the National Assembly of Republika Srpska."

Paragraph 2 of Article 11.1 will become paragraph 3 of the same Article.

Article 10

In Article 11.6, after paragraph 1, the following new paragraphs 2 and 3 shall be inserted:

"Unless each constituent people receives a minimum of four (4) mandates, the later compensatory mandate(s) shall be given to the candidate(s) of the relevant constituent people(s) from the compensatory list of the political party or coalition having received the highest number of votes and having eligible candidates of the relevant

constituent people left on the list.

If a political party or coalition does not have enough eligible candidates of the relevant constituent people on its compensatory list to fill the seats allocated to it, then the mandate shall be transferred to the party or coalition's list having received the highest number of votes and having such candidates left on its compensatory list(s). If no candidate from the relevant constituent people(s) can be found on any compensatory lists, the seat(s) shall be transferred to the party or coalition's list having received the highest number of votes and having such candidates left on another list(s) in accordance with Article 9.9, paragraph 2 of this law."

Article 11

After Article 11.8, a new Article 11.8 A shall be inserted:

"When allocating mandates to fill mandates terminated in accordance with article 1.10 of this law, a minimum representation of four (4) members of each constituent people shall be ensured.

The following rules will apply and supercede the solutions specified in Article 9.10 and 9.11 of this Law whenever the application of these articles would bring the representation of a Constituent people below the minimum spelled out in Article 10.1 of this law:

1. If an elected independent candidate's mandate terminates, then the independent candidate's deputy shall succeed to the mandate held by the independent candidate in accordance with Article 11.8 of this law, provided that the deputy comes from the same constituent people as the independent candidate.

Should the deputy not come from the same constituent people, the vacancy shall be filled from the political party or coalition having received the highest number of votes in the same constituency and having eligible candidates of the relevant constituent people left on its list in accordance with article 9.9, paragraph 2 of this law.

If the political party or coalition does not have enough eligible candidates on the list in the same constituency to fill seats allocated to it, the mandate shall be transferred to the party or coalition's list having received the highest number of votes and having such candidates left on its list(s) in any other constituency in accordance with article 9.9, paragraph 2 of this law.

2. If an elected political party or coalition candidate's mandate terminates, then the mandate shall be given to the next candidate from the same constituency list and belonging to the same constituent people as the original candidate in accordance with Article 9.9, paragraph 2 of this law.

Should there be no more candidates on the same constituency list belonging to the same constituent people, then the mandate shall be given to the list of the same political party or coalition in another constituency that received the highest number of votes, in accordance with Article 9.9, paragraph 2 of this law.

If there are no more candidates on any of the party or coalition's lists, then the mandate shall be given to the political party or coalition from the same constituency that received the highest number of votes and has eligible candidate(s) belonging to the same constituent people as the original candidate on its list, in accordance with Article 9.9, paragraph 2 of this law.

Should there be no more candidates from the same constituency belonging to the same constituent people as the original candidate, then the mandate shall be given to the political party or coalition in any of the constituencies, that has received the highest number of votes and has eligible candidates belonging to that constituent people in accordance with Article 9.9, paragraph 2 of this law.

3. If an elected political party or coalition candidate's compensatory mandate terminates, then the mandate shall be given to the candidate on the same compensatory mandate list who belongs to the same constituent people in accordance with Article 9.8 of this law.

Should there be no more eligible candidates belonging to the same constituent people on the same compensatory mandate list, then the mandate shall be given to the party or coalition that has received the highest number of votes and that has an eligible candidate belonging to the same constituent people on its compensatory mandate list. The mandate shall then be allocated in accordance with Article 9.8 of this law."

Article 12

After Chapter 11, a new Chapter 12 shall be inserted as follows:

“Chapter 12

Presidency of Republika Srpska

Article 12.1

The President and two (2) Vice Presidents of Republika Srpska shall be directly elected from the territory of Republika Srpska by voters registered to vote for Republika Srpska.

Article 12.2

A voter registered to vote for the President of the Republika Srpska may vote for one candidate only.

Article 12.3

The candidate from each constituent people receiving the highest number of votes shall be elected. Among these three (3) candidates, one from each constituent people, the candidate receiving the highest number of votes shall be elected President, and the two candidates receiving the second and third highest number of votes shall be elected Vice Presidents.

Article 12.4

The mandate for the President and Vice Presidents of Republika Srpska shall be four (4) years.”

Article 13

The current Chapters 12, 13, 14, 15, 16, 17 and 18 shall become Chapters 13, 14, 15, 16, 17, 18 and 19.

Article 14

Article 18.12, which according to Article 13 of these amendments has become Article 19.12, shall be amended to read as follows:

“The election of the President and Vice Presidents of Republika Srpska, the President and Vice Presidents of the Federation of Bosnia and Herzegovina, the election of the delegates to the Council of Peoples of Republika Srpska, and the election of the delegates to the House of Peoples of the Federation of Bosnia and Herzegovina shall be regulated in a manner consistent with the constitutions of the Entities.”

Article 15

Article 18.13, which according to Article 13 of these amendments has become Article 19.13, shall be amended to read as follows:

“If the Entities fail to establish multi-member constituencies, according to Article 19.11 of this law, by December 31 2001 the following multi-member constituencies shall be used for elections held in 2002.

Of the ninety eight (98) members of the House of Representatives of the Federation of Bosnia and Herzegovina who shall be directly elected by voters registered to vote for the territory of the Federation of Bosnia and Herzegovina, seventy three (73) shall be elected from among twelve (12) multi-member constituencies, and twenty five (25) shall be compensatory mandates elected from the territory of the Federation of Bosnia and Herzegovina as a whole. The mandates shall be distributed in accordance with Articles 9.6 to 9.9 of this law.

The seventy three (73) multi-member constituency mandates for the House of Representatives of the Federation of Bosnia and Herzegovina shall be allocated according to the following:

Constituency 1 consists of Canton 1 and elects nine (9) members.

Constituency 2 consists of Canton 2, part of Canton 3 (Gradacac, Gracanica, Doboj-East) and voters from Brcko District who have registered to vote for to the Federation of Bosnia and Herzegovina and elects five (5) members.

Constituency 3 consists of part of Canton 3 (Lukavac, Srebrenik, Tuzla, Celic) and elects seven (7) members.

Constituency 4 consists of part of Canton 3 (Teocak, Banovici, Zivinice, Kalesija, Sapna and Kladanj) and elects four (4) members.

Constituency 5 consists of part of Canton 4 (Doboj-South, Tesanj, Maglaj, Zepce, Zavidovici, Zenica and Usora) and elects eight (8) members.

Constituency 6 consists of part of Canton 4 (Kakanj, Vares, Olovo, Visoko and Breza) and elects four (4) members.

Constituency 7 consists of Canton 5 and part of Canton 9 (Novi Grad-Sarajevo, Ilidza, Hadzici and Trnovo) and elects six (6) members.

Constituency 8 consists of Canton 6 and elects nine (9) members.

Constituency 9 consists of Canton 7 and elects eight (8) members.

Constituency 10 consists of Canton 8 and elects three (3) members.

Constituency 11 consists of part of canton 9 (Ilijas, Vogosca, Centar-Sarajevo, Stari Grad-Sarajevo, Novo Sarajevo) and elects seven (7) members.

Constituency 12 consists of Canton 10 and elects three (3) members.

Of the eighty three (83) members of the National Assembly of the Republika Srpska who shall be directly elected by voters registered to vote for the territory of the Republika Srpska, sixty two (62) shall be elected from among six (6) multi-member constituencies and twenty one (21) shall be compensatory mandates elected from the territory of the Republika Srpska as a whole. The mandates shall be distributed in accordance with Articles 9.6 to 9.9 of this law.

The sixty-two (62) multi-member constituency mandates for the National Assembly of the Republika Srpska shall be allocated according to the following:

Constituency 1 consists of municipalities Bosanska Krupa / Krupa na Uni, Bosanski Novi / Novi Grad, Bosanska Dubica / Kozarska Dubica, Prijedor, Bosanska Gradiska / Gradiska, Laktasi, Srbac, Prnjavor, Sanski Most / Srpski Sanski Most, and Kostajnica and elects thirteen (13) members.

Constituency 2 consists of municipalities Bosanski Petrovac / Petrovac, Banja Luka, Celinac, Drvar / Srpski Drvar, Kljuc / Ribnik, Mrkonjic Grad, Jajce / Jezero, Skender Vakuf / Knezevo, Kotor Varos, Sipovo, and Kupres / Srpski Kupres and elects twelve (12) members.

Constituency 3 consists of municipalities Derventa, Bosanski Brod / Srpski Brod, Odzak / Vukosavlje, Modrica, Doboj, Gracanica / Petrovo, and Teslic and elects ten (10) members.

Constituency 4 consists of municipalities Bosanski Samac / Samac, Orasje / Srpsko Orasje, Gradacac / Pelagicevo, Bijeljina, Lopare, Ugljevik, and voters from Brcko District who have registered to vote for the Republika Srpska and elects nine (9) members.

Constituency 5 consists of municipalities Kalesija / Osmaci, Zvornik, Sekovici, Vlasenica, Bratunac, Srebrenica, Sokolac, Han Pijesak, Ilidza / Srpska Ilidza, Stari Grad / Srpski Stari Grad, Novo Sarajevo / Srpsko Novo Sarajevo, Trnovo (RS), Pale (RS), Rogatica, and Milici and elects eleven (11) members.

Constituency 6 consists of municipalities Visegrad, Mostar / Srpski Mostar, Nevesinje, Kalinovik, Gacko, Foca / Srbinje, Gorazde / Srpsko Gorazde, Cajnice, Rudo, Stolac / Berkovici, Ljubinje, Bileca, and Trebinje and elects seven (7) members.”

Article 16

This Law 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 Republika Srpska and of Brcko District.

Sarajevo, 19 April 2002

Wolfgang Petritsch

High Representative