

Decision on Police Disciplinary Proceedings

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 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” and actions against persons holding public office or officials;

Taking into consideration that the mandate of the United Nations International Police Force referred to in Annex 11 to the General Framework Agreement for Peace in Bosnia and Herzegovina and entitled “Agreement on International Police Force” has come to an end;

Recalling the part played by the United Nations International Police Task Force in furtherance of the objectives of the said Annex;

Recalling Article III: 2 (c) of Annex 4 to the General Framework Agreement for Peace in Bosnia and Herzegovina (the Constitution of Bosnia and Herzegovina) according to which the Federation of Bosnia and Herzegovina and the Republika Srpska “ shall provide a safe and secure environment for all persons in their respective jurisdictions, by maintaining civilian law enforcement agencies operating in accordance with internationally recognised standards and with respect for ... internationally recognized human rights and fundamental freedoms and by taking such other measures as appropriate”;

Further recalling the citation of Article III: 2 (c) aforesaid in Article 1: 1 of the said Annex 11;

Welcoming the decision of the European Union to establish a Police Mission to follow that of the aforesaid United Nations International Police Task Force;

Taking into account Resolution 1396 (2002) of the Security Council of the United Nations adopted by the Security Council at its 4484th meeting, on 5 March 2002 which inter alia welcomed the acceptance by the Steering Board of the Peace Implementation Council on 28 February 2002 of the offer made by the European Union to provide a European Union Police Mission from 1 January 2003, to follow the end of the mandate of the United Nations Mission in Bosnia and Herzegovina, as part of a co-ordinated rule of law programme and encouraged co-ordination between the United Nations Mission in Bosnia and Herzegovina, the European Union and the High Representative in order to ensure a seamless transition of responsibilities from the International Police Task force to the European Union Police Mission;

Noting that the Security Council in its aforesaid Resolution 1396 (2002) further welcomed and agreed to the designation by the said Steering Board of Lord Ashdown as High Representative in Bosnia and Herzegovina and further noting that Lord Ashdown has been appointed by the European Union as its Special Representative in Bosnia and Herzegovina;

Recalling that on 4 March 2002, the authorities of Bosnia and Herzegovina invited the European Union to assume responsibility for the follow-on to the United Nations Police Mission to Bosnia and Herzegovina;

Determined that the said European Union Police Mission shall have available to it the necessary powers to implement its mandate in Bosnia and Herzegovina and the Entities;

Bearing in mind the agreement with the international community formally expressed by the Government of Bosnia and Herzegovina on the occasion of the meeting of the Political Directors of the Steering Board of the Peace Implementation Council at Sarajevo on 23 September 2002, pledging support for the proposition that any police officer who fails to meet standards of integrity and competency should be removed;

Noting 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;

Conscious of the need to develop and promote the capacity of the domestic civilian police authorities of Bosnia and Herzegovina to assume full responsibility for disciplinary and other removal processes in relation to police officers holding office throughout Bosnia and Herzegovina and its Entities;

Having borne in mind the totality of the matters aforesaid the High Representative issues the following

DECISION

1. The High Representative, acting under Article V of Annex 10 to the General Framework Agreement for Peace in Bosnia and Herzegovina as final authority in theatre regarding interpretation of the Agreement on the Civilian Implementation of the Peace Settlement, declares and determines that such civilian implementation of the peace settlement requires that disciplinary proceedings shall be taken, continued, prosecuted and properly and fairly pursued to conclusion by the appropriate domestic civilian police authorities (police officials and/or officers) against police officers who are alleged to have:

A) violated the provisions of the General Framework Agreement for Peace in Bosnia and Herzegovina; and/or

B) obstructed the peace implementation process by a failure to co-operate with the European Union Police Mission; and/or

C) failed to adhere to democratic policing principles.

2. The High Representative, acting as aforesaid, likewise declares and determines that such civilian implementation of the peace settlement requires that the responsible domestic police officials and/or officers who fail to take and/or continue and/or prosecute and pursue, properly and fairly to conclusion, disciplinary proceedings as aforesaid, together with their superiors both within the domestic police authorities of Bosnia and Herzegovina and at governmental level, are themselves respectively to be treated/liable to be treated as being thereby in violation of the provisions of the General Framework Agreement for Peace in Bosnia and Herzegovina, and/or of obstruction of the peace implementation process, and/or of failure to adhere to democratic policing principles.

3. The Commissioner of the European Union Police Mission is required and empowered to identify to the aforesaid domestic civilian police authorities (police officials and/or officers), any such officers who appear prima facie to him to fall within one or other of the categories referred to in numbered paragraph 1 hereof, with a view to such disciplinary proceedings as aforesaid being taken, continued, prosecuted and properly and fairly pursued to conclusion as appropriate.

4. Any obstruction of, or interference with, or failure to take, continue, prosecute or properly and fairly pursue to conclusion such proceedings shall be notified by the Commissioner of the European Union Police Mission to the High Representative. The Commissioner of the European Union Police Mission may request that the High Representative take appropriate steps upon receiving such notification in respect of police officials and/or officers and/or in respect of their superiors both within the domestic police authorities of Bosnia and Herzegovina and at governmental level, whether specifically referred to in paragraphs 1 and 2 hereof or otherwise.

5. This Decision is made pursuant to the powers of the High Representative under Annex 10 aforesaid and neither it, nor procedures followed pursuant to it, nor action taken under it, shall be justiciable before the courts of Bosnia and Herzegovina or otherwise.

6. This Decision shall take effect forthwith and shall be published without delay in the Official Gazette of Bosnia and Herzegovina.

Sarajevo, 24 January 2003

*Paddy Ashdown
High Representative*