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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

**ELECTIONS
IN BOSNIA AND HERZEGOVINA**

- a) Annex 3 (Elections) to the Dayton Agreement**
- b) Rules and regulations of the Provisional Election Commission (OSCE)**

ANNEX 3

Elections

AGREEMENT ON ELECTIONS

In order to promote free, fair, and democratic elections and to lay the foundation for representative government and ensure the progressive achievement of democratic goals throughout Bosnia and Herzegovina, in accordance with relevant documents of the Organization for Security and Cooperation in Europe (OSCE), the Republic of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and the Republika Srpska ("the Parties") have agreed as follows:

Article I

Conditions for Democratic Elections

1. The Parties shall ensure that conditions exist for the organization of free and fair elections, in particular a politically neutral environment; shall protect and enforce the right to vote in secret without fear or intimidation; shall ensure freedom of expression and of the press; shall allow and encourage freedom of association (including of political parties); and shall ensure freedom of movement.

2. The Parties request the OSCE to certify whether elections can be effective under current social conditions in both Entities and, if necessary, to provide assistance to the Parties in creating these conditions.

3. The Parties shall comply fully with paragraphs 7 and 8 of the OSCE Copenhagen Document, which are attached to this Agreement.

Article II

The OSCE Role

1. OSCE. The Parties request the OSCE to adopt and put in place an elections program for Bosnia and Herzegovina as set forth in this Agreement.

2. Elections. The Parties request the OSCE to supervise, in a manner to be determined by the OSCE and in cooperation with other international organizations the OSCE deems necessary, the preparation and conduct of elections for the House of Representatives of Bosnia and Herzegovina; for the Presidency of Bosnia and Herzegovina; for the House of Representatives of the Federation of Bosnia and Herzegovina; for the National Assembly of the Republika Srpska; for the Presidency of the Republika Srpska; and, if feasible, for cantonal legislatures and municipal governing authorities.

3. The Commission. To this end, the Parties request the OSCE to establish a Provisional Election Commission ("the Commission").

4. Timing. Elections shall take place on a date ("Election Day") six months after entry into force of this Agreement or, if the OSCE determines a delay necessary, no later than nine months after entry into force.

Article III

The Provisional Election Commission

1. Rules and Regulations. The Commission shall adopt electoral rules and regulations regarding: the registration of political parties and independent candidates; the eligibility of candidates and voters; the role of domestic and international election observers; the ensuring of an open and fair electoral campaign; and the establishment, publication, and certification of definitive election results. The Parties shall comply fully with the electoral rules and regulations, any internal laws and regulations notwithstanding.

2. Mandate of the Commission. The responsibilities of the Commission, as provided in the electoral rules and regulations, shall include:

- (a) supervising all aspects of the electoral process to ensure that the structures and institutional framework for free and fair elections are in place;
- (b) determining voter registration provisions;
- (c) ensuring compliance with the electoral rules and regulations established pursuant to this Agreement;

- (d) ensuring that action is taken to remedy any violation of any provision of this Agreement or of the electoral rules and regulations established pursuant to this Agreement, including imposing penalties against any person or body that violates such provisions; and
- (e) accrediting observers, including personnel from international organizations and foreign and domestic non-governmental organizations, and ensuring that the Parties grant accredited observers unimpeded access and movement.

3. Composition and Functioning of the Commission. The Commission shall consist of the Head of the OSCE Mission, the High Representative or his or her designee, representatives of the Parties, and such other persons as the Head of the OSCE Mission, in consultation with the Parties, may decide. The Head of the OSCE Mission shall act as Chairman of the Commission. In the event of disputes within the Commission, the decision of the Chairman shall be final.

4. Privileges and Immunities. The Chairman and Commission shall enjoy the right to establish communications facilities and to engage local and administrative staff, and the status, privileges and immunities accorded to a diplomatic agent and mission under the Vienna Convention on Diplomatic Relations.

Article IV

Eligibility

1. Voters. Any citizen of Bosnia and Herzegovina aged 18 or older whose name appears on the 1991 census for Bosnia and Herzegovina shall be eligible, in accordance with electoral rules and regulations, to vote. A citizen who no longer lives in the municipality in which he or she resided in 1991 shall, as a general rule, be expected to vote, in person or by absentee ballot, in that municipality, provided that the person is determined to have been registered in that municipality as confirmed by the local election commission and the Provisional Election Commission. Such a citizen may, however, apply to the Commission to cast his or her ballot elsewhere. The exercise of a refugee's right to vote shall be interpreted as confirmation of his or her intention to return to Bosnia and Herzegovina. By Election Day, the return of refugees should already be underway, thus allowing many to participate in person in elections in Bosnia and Herzegovina. The Commission may provide in the electoral rules and regulations for citizens not listed in the 1991 census to vote.

Article V

Permanent Election Commission

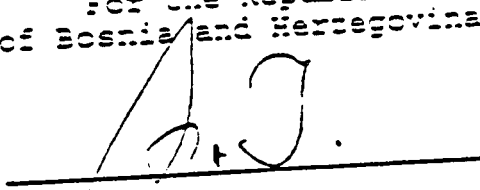
The Parties agree to create a permanent Election Commission with responsibilities to conduct future elections in Bosnia and Herzegovina.

Article VI

Entry into Force

This Agreement shall enter into force upon signature.

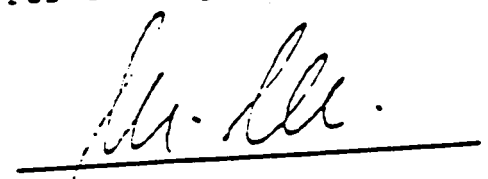
For the Republic
of Bosnia and Herzegovina



For the Federation of
Bosnia and Herzegovina



For the Republika Srpska



ATTACHMENT
TO ANNEX 3 ON ELECTIONS

Document of the Second Meeting of the Conference on the Human Dimension of the Conference on Security and Cooperation in Europe, Copenhagen, 1990

Paragraphs 7 and 8:

- (7) To ensure that the will of the people serves as the basis of the authority of government, the participating States will
- (7.1) - hold free elections at reasonable intervals, as established by law;
 - (7.2) - permit all seats in at least one chamber of the national legislature to be freely contested in a popular vote;
 - (7.3) - guarantee universal and equal suffrage to adult citizens;
 - (7.4) - ensure that votes are cast by secret ballot or by equivalent free voting procedure, and that they are counted and reported honestly with the official results made public;
 - (7.5) - respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination;
 - (7.6) - respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and provide such political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities;
 - (7.7) - ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution;
 - (7.8) - provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process;

- (7.9) - ensure that candidates who obtain the necessary number of votes required by law are duly installed in office and are permitted to remain in office until their term expires or is otherwise brought to an end in a manner that is regulated by law in conformity with democratic parliamentary and constitutional procedures.
- (8) The participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place. They therefore invite observers from any other CSCE participating States and any appropriate private institutions and organizations who may wish to do so to observe the course of their national election proceedings, to the extent permitted by law. they will also endeavour to facilitate similar access for election proceedings held below the national level. Such observers will undertake not to interfere in the electoral proceedings.

Distributed at the request of
the Conflict Prevention Centre



Organization for Security and Cooperation in Europe
Mission to Bosnia and Herzegovina

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RULES AND REGULATIONS
OF THE
PROVISIONAL ELECTION COMMISSION

10 MAY 1996

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**RULES FOR REGISTERED INDEPENDENT CANDIDATE REPRESENTATIVES AND
REGISTERED POLITICAL PARTY REPRESENTATIVES**

1. The names of registered independent candidate representatives and registered political party representatives will be proposed by the registered independent candidates and the registered political parties.
2. The names of the representatives will be submitted on appointment forms to the Local Election Commission, who will give a copy to the Polling Station Committee Chairmen.
3. Each registered political party or registered independent candidate may have one representative at a polling station at any time and may be represented at the counting centres. The numbers of representatives present at the Counting Centres will be determined by the Counting Centre Chairman. The representatives will respect the Rules and Regulations of the Provisional Election Commission, will not interfere with the voting or counting process and must respect the secrecy of the vote.
4. All independent candidate representatives and registered political party representatives will have access to the polling stations and counting centres. Appointment forms must be shown to the Polling Station Committee Chairman who will give them a Provisional Election Commission identification badge. The registered independent candidate representatives and registered political party representatives must wear the approved Provisional Election Commission identification badge and may not wear or carry anything that identifies them with a particular party or candidate.
5. Any complaints by the independent candidate representatives or the registered political party representatives must be submitted to the Polling Station Committee Chairman at the voting station or counting centre and will become part of the official record of the Polling Station or Counting Centre.

ELECTION APPEALS SUB-COMMISSION

The Provisional Election Commission has established an Election Appeals Sub-Commission, in accordance with its authority established in Annex 3 of the General Framework Agreement for Peace in Bosnia and Herzegovina: Article III: par.(2)(b)(c). The Election Appeals Sub-Commission will be a juridical body whose four members are appointed by the Chairman of the Provisional Election Commission in consultation with its members. It shall have its powers delegated therein by the Provisional Election Commission: powers, which from time to time may be amended. The Chairman of the Election Appeals Sub-Commission will be a distinguished international lawyer or jurist with election experience: one senior judge from Bosnia and Herzegovina and one from the Federation of Bosnia and Herzegovina and the Republika Srpska, will also be appointed. The Election Appeals Sub-Commission will meet, as required, at the OSCE Headquarters in Sarajevo, and will be served by a staff of four lawyers, one from an OSCE participating state and one from Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and Republika Srpska. It will draw up its own Rules of Procedure, which shall include a procedure to lodge complaints. This body, once fully constituted, shall report to the Head of the OSCE Mission to Bosnia and Herzegovina.

The function of the Election Appeals Sub-Commission will be to ensure compliance with the electoral Rules and Regulations established by the Provisional Election Commission and adjudicate complaints with regard to the electoral process referred to it by the Provisional Election Commission, the Media Experts Commission, political parties, candidates, individuals or other entities. The Election Appeals Sub-Commission will adjudicate complaints regarding the following matters:

- (a) Violations of provisions on elections in the General Framework Agreement for Peace in Bosnia and Herzegovina; and
- (b) Violations of the Rules and Regulations of the Provisional Election Commission:
 - (i) Additions, deletions or changes in the Provisional Voters' List;
 - (ii) Standards of Professional Conduct for Media and Journalists;
 - (iii) Regulations Concerning the Obligations of Governments in Relation to the Media in Bosnia and Herzegovina;
 - (iv) The Electoral Code of Conduct for Political Parties, Candidates and Election Workers;
 - (v) Rules for Registering Political Parties and Independent Candidates; and
 - (vi) Any other procedures or rules, including polling and counting procedures established by the Provisional Election Commission.

The Election Appeals Sub-Commission will have the right to call witnesses; consult with Government representatives of Bosnia and Herzegovina and from the Entities, political parties, and independent experts; and solicit all other evidence it deems appropriate. In the event that a consensus cannot be reached by the Election Appeals Sub-Commission, the Chairman will make the final and binding decision.

The Election Appeals Sub-Commission will have the right to impose appropriate penalties and/or fines against any individual, candidate, party or body that violates the Rules and Regulations established by the Provisional Election Commission. In applying penalties and/or fines the Election Appeals Sub-Commission shall take the following factors into account:

- (a) The responsibility of party leaders for their actions and those of their party members;
- (b) The responsibility of candidates on party lists for their actions and those of their supporters; and
- (c) The responsibility of independent candidates for their actions and those of their supporters.

The Election Appeals Sub-Commission may prohibit a political party from running in the elections, decertify a party already listed on the ballot, remove a candidate from a party list or an independent candidate from the ballot when it determines a violation of the principles established in the General Framework Agreement for Peace in Bosnia and Herzegovina or the rules established by the Provisional Election Commission has occurred. The Election Appeals Sub-Commission may set and apply pecuniary or other appropriate penalties for actions carried out with the intent to disrupt the electoral process.

All claims must be settled by the Election Appeals Sub-Commission in a timely manner and within the deadlines established in its Rules of Procedure or other relevant documents approved by the Provisional Election Commission. The decision of the Election Appeals Sub-Commission shall be binding and may not be appealed.

In the event that situations arise which require modifications of the regulations set forth herein, the Election Appeals Sub-Commission may apply for such modifications to be determined by the Provisional Election Commission. No such decision by the Provisional Election Commission shall affect any decision already made by the Election Appeals Sub-commission.

The Election Appeals Sub-Commission will remain active until all claims are adjudicated and will thereupon be dissolved by the Provisional Election Commission.

QUALIFICATIONS OF ELECTION COMMISSION MEMBERS IN BOSNIA AND HERZEGOVINA

The Provisional Election Commission in accordance with its authority established in Annex 3 of the General Framework Agreement for Peace in Bosnia and Herzegovina establishes the rules for membership of the Election Commissions in Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and the Republika Srpska.

Qualifications of Election Commissions Members

1. All members of the Election Commissions shall be persons who are eligible to vote in the forthcoming elections.
2. Election Commissions shall comprise present and former judges of the Courts of Bosnia and Herzegovina. In the case that there are not a sufficient number of judges, then lawyers and other persons of high professional standing and appropriate experience and knowledge who can efficiently perform the work of the Commission shall be appointed.
3. No person shall be appointed as a member of or be employed by or participate in the functions of the Commissions if he or she is:
 - (a) ineligible to run as a candidate for office under the General Framework Agreement for Peace in Bosnia and Herzegovina;
 - (b) prohibited under any of the provisions of the Rules and Regulations of the Provisional Election Commission;
 - (c) elected to or holds a politically appointed office or is seeking an elected office;
 - (d) in a leadership position of a political party or intends to seek such a position; or
 - (e) shown to lack the impartiality necessary to be a member of the Commission.
4. The Provisional Election Commission may refuse the appointment or employment of any person by a Commission. The decision of the Provisional Election Commission shall be final. Appointment of members of the election commission will be confirmed by the Provisional Election Commission.

**RELATIONSHIP OF THE ELECTION COMMISSIONS WITH THE PROVISIONAL
ELECTION COMMISSION AND RESPONSIBILITIES OF THE ELECTION
COMMISSIONS**

The Election Commissions are appointed by the appropriate authorities in the Federation of Bosnia and Herzegovina or the Republika Srpska.

Relationship of the Election Commissions with the Provisional Election Commission

1. Authorised agents of the Provisional Election Commission. Supervisors, observers, and other members of the international community accredited by the Provisional Election Commission shall have access to all documents, records and be permitted to attend working groups, planning meetings and official sessions of the Election Commissions.
2. The names of all members of the Election Commissions shall be submitted to the Provisional Election Commission for approval within 15 days of their appointment, but the Election Commissions shall begin their work immediately.
3. Changes in the composition of the Election Commissions shall meet with the approval of the Provisional Election Commission.
4. Election Commissions shall function in accordance with the Rules and Regulations of the Provisional Election Commission.

The responsibilities of the Election Commissions include the following:

1. Election Commissions shall be responsible for the conduct of the elections under the supervision of the OSCE and the Provisional Election Commission and execute other actions as instructed by the Provisional Election Commission.
2. Election Commissions in consultation with the OSCE and Provisional Election Commission, shall provide geographic descriptions of the areas to be covered by polling stations and select polling stations.
3. Election Commissions shall provide space, furniture, utilities, etc. for the:
 - (a) Registration offices;
 - (b) Polling stations;
 - (c) Absentee voting polling stations;
 - (d) Counting centres; and
 - (e) Training.
4. Election Commission shall provide staff for the:
 - (a) Registration process;

- (b) Voting (Polling Station Commissions);
- (c) Absentee voting; and
- (d) Counting.

5. The Election Commissions, under the supervision of the OSCE and the Provisional Election Commission, shall provide transport and security for materials from OSCE Regional Centres and Field Offices to and from Municipalities and to and from Polling Stations (for voting materials) including the:

- (a) Provisional Voters' Lists and application forms;
- (b) Official Voters' List;
- (c) Voting materials (ballot boxes, voting screens, etc.);
- (d) Ballots (for the absentee and for election day);
- (e) Absentee ballot boxes; and
- (f) Ballot boxes (to counting centres).

6. The Election Commissions, under the supervision of the OSCE and the Provisional Election Commission, shall provide warehousing for election materials and supplies as needed.

7. The Election Commissions shall attend meetings and training sessions presented by OSCE trainers for the:

- (a) Registration process;
- (b) Absentee voting process; and
- (c) Voting process.

8. Election Commissions shall keep applicable records.

9. Election Commissions shall assist with the distribution of election information and voter education materials.

CRITERIA FOR POLLING STATIONS IN BOSNIA AND HERZEGOVINA

A polling station means a room where a voter, whose name is on the Official Voters' List, may vote. A polling place means a building where one or more polling stations are provided for the purpose of voting at an election. The Election Commission in each municipality must identify the locations of the polling stations by a date to be announced by the Provisional Election Commission.

The Municipal Election Commissions will provide a list of the polling stations and a description of the areas to be covered by each polling station to the Provisional Election Commission by a date to be announced by the Provisional Election Commission. The Municipal Election Commission will inform the voters of the locations of the polling stations in the municipality. Polling station locations will be selected using the following criteria.

1. An average of 600 - 800 voters will be used as a guideline for establishing a polling station.
2. The number of absentee voting stations will be determined by the Municipal Election Commission based on the estimated number of absentee ballot applications received during the registration. These absentee polling stations will be located in places convenient to the administration of the absentee vote.
3. The polling station may not be located in a building with government offices or offices associated with a political party. It may not be located in a building where liquor is sold or served.
4. The polling station must be large enough to efficiently process voters and meet the requirements of the election staff, with sufficient furniture and space to accommodate Supervisors, monitors, candidate representatives and party representatives. There must be enough space to permit placing voting screens in a location to ensure the secrecy of the vote and placing ballot boxes in a position visible to election officials and other accredited persons.
5. Access to the polling station shall be closed in case of an emergency, before opening the polling station and after the close of the polling station.
6. The polling station must be located in an accessible place and should, where possible, have level access. Adequate lighting and protection from the elements is required.
7. Signage on and in the building where the polling station is located must be placed in appropriate areas, particularly where there is more than one polling station in the building.
8. Once polling stations have been selected and their locations advertised, any change in location is to be co-ordinated with the Provisional Election Commission. If a change is

required. voters are to be notified through available media sources. Notices are to be posted at the original polling station location advising voters of the new polling station location.

DISRUPTIONS OF THE VOTING PROCESS

1. If there is a threat to peace and order, an outbreak of violence or the presence of weapons within a polling station, the Chairman of the Polling Station Committee shall
 - a) ensure that the threat, outbreak of violence or presence of weapons is removed from the polling station immediately;
 - b) if the threat, outbreak of violence or presence of weapons cannot be removed immediately, the Chairman of the Polling Station Committee shall suspend voting for as long as it takes to restore peace and order to the polling station. If the Chairman deems it necessary, he may call upon the assistance of the police or security forces outside the polling station to restore peace and order within the polling station;
 - c) if voting has been suspended and peace and order restored, the Chairman shall extend the hours of voting by at least the amount of time taken from the beginning of the threat, outbreak of violence or presence of weapons to the restoration of peace and order;
 - d) if peace and order have not been restored within a reasonable time and it appears to the Chairman that the possibility of peace and order being restored within a reasonable time is not likely, then the Chairman may postpone voting to the next day if possible; if that is not possible, then the Chairman of the Local Election Commission in conjunction with the senior OSCE agent in the area must designate another day, but no later than 7 days from the day of the interruption; if the voting cannot be held within 7 days, then the Provisional Election Commission shall decide when the vote shall be taken.
2. If there is a threat to peace and order, an outbreak of violence or the presence of weapons outside a polling station, the police or other security force responsible for peace and order shall
 - a) ensure that the threat, outbreak of violence or presence of weapons is removed from the vicinity of the polling station immediately;
 - b) if the threat, outbreak of violence or presence of weapons cannot be removed immediately, the Chairman of the Polling Station Committee shall suspend voting for as long as it takes to restore peace and order to the vicinity of the polling station.
 - c) if voting has been suspended and peace and order restored, the Chairman shall extend the hours of voting by at least the amount of time taken from the beginning of the threat, outbreak of violence or presence of weapons to the restoration of peace and order.
 - d) if peace and order have not been restored within a reasonable time and it appears to the Chairman that the possibility of peace and order being restored within a reasonable time is not likely, then the Chairman may postpone voting to the next day if possible; if that is not possible, then the Chairman of the Local Election Commission in conjunction with the senior OSCE agent in the area must designate another day, but no later than 7 days from the day of the interruption; if the voting cannot be held within 7 days, then the Provisional Election Commission shall decide when the vote shall be taken.

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ELECTIONS IN DIVIDED MUNICIPALITIES

1) The Governments of the Federation of Bosnia and Herzegovina and Republika Srpska shall appoint *ad hoc* Election Commissions in all of the parts of divided municipalities without the municipal capital city in its territory:

a) where the government has determined that there is a sufficient voting population to warrant the establishment of such an *ad hoc* election commission; and

b) when the government has decided not to merge the parts of divided municipalities with other municipalities.

2) In such cases as 1(a & b), the elections on which the voting population of the divided municipalities may cast their votes includes

a) elections other than those at the municipal level; and

b) elections at the municipal level where there is a functioning municipal government.

3) If by 24 May 1996, the Federation of Bosnia and Herzegovina and/or the Republika Srpska has not created *ad hoc* election commissions in some of the divided municipalities as described in CI #1 above, there shall be no elections held in those divided municipalities of the Federation of Bosnia and Herzegovina or Republika Srpska, where there are no appointed election commissions.