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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

BOSNIA AND HERZEGOVINA

**AGREEMENT ON THE ESTABLISHMENT
OF THE FEDERATION
IMPLEMENTATION COUNCIL**

Agreement on the Establishment of the Federation Implementation Council

We, the undersigned, met in Washington, D.C., on 14 May 1996, on the occasion of the Federation Forum and discussed concrete steps to overcome problems created by officials on the municipal, city, cantonal or federal level in the implementation of the Dayton Agreements, international agreements on the Federation of Bosnia and Herzegovina and the decisions of the Federation Arbitrator.

We reaffirm our commitments under paragraph 8 of the Geneva Statement of 18 March 1996 and paragraph 11, 12 and 13 of the Sarajevo Agreement of 30 March 1996. We recognize the necessity to take concrete steps to ensure the implementation of these provisions and to ensure the establishment of functioning institutions on all levels of the Federation. The functioning of the institutions is essential to protect human rights, including freedom of movement for all within the Federation, thus enabling all displaced persons and refugees to return freely to their homes of origin, as provided for in Annex 7 of the General Framework Agreement for Peace in Bosnia and Herzegovina (the "Peace Agreement").

Following the proposal of the Federation Mediator presented at the Petersberg Conference on 25 April 1996 to establish a mechanism to remove from office those whose actions are detrimental to the implementation of the Peace Agreement, to all agreements on the Federation of Bosnia and Herzegovina or to the decisions of the Federation Arbitrator, or officials who do not respect human rights, or who systematically and seriously obstruct cooperation with the International Criminal Tribunal for the Former Yugoslavia, we have agreed:

1.
The Federation of Bosnia and Herzegovina establishes a Federation Implementation Council to continue in existence unless otherwise decided by the Federation Assembly.
2.
The Council shall consist of five members. Its composition shall be as follows: The President and the Vice President of the Federation, the Principal Deputy High Representative and two representatives of the international community to be appointed by the other three members by consensus. The Council shall be chaired by the Principal Deputy High Representative.
3.
The Council shall convene in Sarajevo on a regular basis and whenever the Chair deems necessary, the first session taking place two weeks after this Agreement enters into force.
4.
The Federation Prime Minister and his Deputy, the Ombudsman of Bosnia and Herzegovina established under Annex 7 of the Peace Agreement, each Ombudsman of the Federation, the Federation Mediator, the Federation Arbitrator and any member of the Council have the right to refer to the Council any case where it is alleged that a person holding elective, appointive or other public office on the Federal, Cantonal, City or Municipal level (other than judges)

- (a) has violated obligations under the Constitution of the Federation, the laws of the Federation or the respective Canton, City or Municipality, the Peace Agreement, all other international agreements on the Federation or the decisions of the Federation Arbitrator,
- (b) has engaged in substantial violations of internationally recognized human rights as guaranteed in the Federation Constitution or has incited, assisted in or routinely condoned such violations by others, including advocacy of ethnic, religious or racial hatred that may lead to discrimination, hostility or violence, or
- (c) has, as a member of the executive branch, systematically and seriously obstructed cooperation with the International Criminal Tribunal for the Former Yugoslavia.
It is not a defence that the person acted under instructions.

5.

The case shall be submitted to the Chair of the Council. The submission shall contain the facts and shall cite the law, agreement or obligation violated.

6.

The Council shall examine the case and deliberate in closed session. The person concerned shall be informed and have the opportunity to present his views to the Council, either in writing or in person or both at his choice.

7.

In carrying out its mandate, the Council may examine official documents, including confidential ones, as well as all administrative files and require any person to cooperate, in particular by providing relevant information, documents and files. The members of the Council are required to maintain the confidentiality of information obtained and shall in particular treat all documents and files in accordance with the applicable rules.

8.

The Council shall take a decision no later than six weeks after filing of the case. It shall take its decisions by a majority of votes of all its members. The decisions of the Council are binding.

9.

In cases where the Council decides upon removal from office, the Council must cite the obligation violated and give the grounds for its decision.

10.

Before deciding upon removal, the council may issue a public warning to the person concerned that he will be removed from office unless the behavior in point is corrected within a short, specified time frame.

11.

In cases where the Council decides the removal of a person from office, the President and the Vice President shall promptly execute that decision or shall, where appropriate, ensure that the decision is executed promptly, unless the Prime Minister has already executed that decision.

12.

The Council shall publish its decision.

13.

The Agreement does not preclude separate indictment for acts that are punishable under criminal law, nor does it preclude other ways of legal recourse, following removal, against or by the person removed. Following removal by the Council from office, the person removed shall not exercise the powers of that office.

14.

The Federation Government shall submit this Agreement to the Federation Assembly at its next session, and the Agreement shall enter into force after adoption by the Federation Assembly.