

Decision Enacting the Law on Amendments to the Law on Primary Education

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 “[f]acilitate, 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 the Peace Agreement throughout Bosnia and Herzegovina and its Entities”;

Noting that the Peace Implementation Council, at its meeting held in Madrid on 16 December 1998, underlined the tasks of High Representative include the co-ordination of international efforts in regard to education”;

Further noting that the Steering Board of the Peace Implementation Council, at its meeting held in Brussels on 21st November 2002, concluded that Bosnia and Herzegovina needs to: “develop a common core curriculum that is consistent with European standards and to rationalise existing structures in order to make financing and management (of education) more efficient” and “fully supported the five pledges”, which included a commitment to “develop, adopt and implement laws in the Entities and Cantons that are consistent with the human rights and education principles and standards embedded in the state – level law (at the least two months before the beginning of the school year 2004 –2005)”;

Recalling that the Council of Europe’s post-accession commitments obligated Bosnia and Herzegovina to eliminate by 24 April 2004 all aspects of ethnically based segregation and discrimination;

Applauding the overriding objective of the Education Reform Strategy to depoliticize education, while creating conditions that will ensure equal access to a high-quality, modern education throughout the country;

Fully Cognizant of the fact that in order to achieve this objective, all children must have access to quality education in integrated, multi-cultural schools free of political, religious, cultural and other bias and discrimination which respect the rights of all children;

Noting that the Steering Board of the Peace Implementation Council, in its Communiqué adopted at its meeting held in Sarajevo on June 12, 2003, “urged the BiH authorities to implement these reforms [by passing the draft State-level Framework Law on Primary and Secondary Education in Bosnia and Herzegovina]” and to take “steps toward harmonizing the three ‘ethnic’ curricula into one BiH-wide common core curriculum, for all subjects taught in primary and general secondary schools”;

Further Noting that the Framework Law on Primary and Secondary Education in Bosnia and Herzegovina (Official gazette of BiH no: 18/2003, 1st July 2003, hereinafter referred to as “the Framework Law”) provides: “[W]ith the aim of achieving adequate quality of education and standards of knowledge, as well as their comparability at domestic and international levels, the competent educational authorities are obliged to ensure that, by the beginning of school year 2003/2004 at the latest, teaching in all schools in the territory of Bosnia and Herzegovina shall be realized on the basis of the common core curriculum, as defined by this law”;

Deploring that Central Bosnia Canton has thus far failed to bring its legislation on Primary and Secondary education into line with the Framework Law;

Having considered, borne in mind and noted all the matters aforesaid, the High Representative hereby issues the following:

DECISION

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(“Official Gazette of the Central Bosnia Canton”, No: 11/01)

The said Law, which is hereunder attached as an integral part of this Decision, shall enter into force as a law of the Central Bosnia Canton as provided for in Article 18 thereof, on an interim basis, until such time as the Cantonal Assembly of the Central Bosnia Canton adopts this Law in due form, without amendment and with no conditions attached.

This Decision shall come into force forthwith and shall be published without delay in the “Official Gazette of the Central Bosnia Canton”.

Sarajevo, 7 July 2004
Paddy Ashdown
High Representative

Law on Amendments to the Law on Primary Education

Article 1

Article 3 of the Law on Primary Education (“Official Gazette of the Central Bosnia Canton”, No. 11/01) shall be amended and shall read as follows:

“Primary education shall be obligatory for all children from six years of age to fifteen years of age.

Obligatory education shall start in the calendar year during which on 1 June a child reaches six years of age and continues in a period not shorter than eight years.

Primary nine-year education shall be successively introduced in primary schools throughout the Canton starting from the school year 2004/05, after the conditions are provided by the respective Cantonal and municipal institutions.

The Ministry of Education, Science, Culture and Sport of the Canton (hereinafter: Ministry) may allow one year prior or later for commencing of obligatory education based on the initiative by or with the consent of the parents if it is in the best interest of the child.

Obligatory education is free of charge for all children, which includes ensuring conditions for free access and participation in education, ensuring access to free textbooks, handbooks and other didactic materials the school has at its disposal.”

Article 2

Article 4 shall be amended and shall read as follows:

“The languages of the constituent peoples of Bosnia and Herzegovina shall be used in all schools in accordance with Article 7 of the of the Framework Law on Primary and Secondary Education in Bosnia and Herzegovina (“Official Gazette of BiH”, no. 18/03, hereinafter – the Framework Law).

All students shall learn scripts that are officially used in Bosnia and Herzegovina in all schools.

By the end of the third year of primary education, all students shall have learnt both official scripts that are officially used in Bosnia and Herzegovina.

Teachers shall respect and explain differences among the three official languages in Bosnia and Herzegovina , whenever relevant to the subject they teach.

There may be no discrimination against students on the basis of their religious, racial, ethnic, gender, cultural and other specificities, nor arising from their use any of the languages or scripts of the constituent peoples of Bosnia and Herzegovina.

There shall be no discrimination against any teacher or other employee in relation to appointment, the terms and conditions of employment, promotion or in taking any other decision relating to that person by reason of the use by him/her in the school of any of the languages of the constituent peoples in oral or written expression."

Article 3

A new Article 4a shall be added after Article 4, and shall read as follows:

"On the day when this Law enters into force, the management and administration shall be unified in all schools utilising the same school building and in the branch schools in which the management and administration are not unified with the main school, or where classes are taught according to several curricula.

The schools referred to in the Paragraph 1 of this Article shall have: a single school Director and Deputy school director who shall not be from the same constituent people/Others, one School Board and one Secretariat. The school management and administration shall be regulated and organised in a manner that shall ensure the equality of languages, scripts, acts, school certificates and curricula".

Article 4

Article 5 shall be amended and shall read as follows:

"A citizen of Bosnia and Herzegovina who in accordance with the Law on Protection of Rights of Members of National Minorities ("Official Gazette of BiH" No. 12/03), declares himself or herself to be a member of a national minority shall be provided with the teaching of his or her mother tongue as well as with other rights in accordance with the aforementioned law on Protection of Rights of Members of National Minorities.

If a person, to whom the previous Paragraph applies, wishes to receive mother tongue language training in his or her mother tongue, then he or she shall inform the school upon enrolment that he or she belongs to a National minority, and the school shall accept that as a fact without having it checked or proved.

Mother tongue training may take place in the class, in a separate class or in a group, or individually.

The teacher responsible for the training referred to in the previous paragraph, shall have sufficient knowledge of the relevant language, as will ensure that he or she can teach the language to an appropriate standard.

The Minister of Education, Science, Culture and Sport of the Canton (hereinafter: Minister) shall be responsible for establishing the curriculum for mother tongue training and for providing teaching material for such training."

Article 5

Paragraph 1 of Article 6 shall be amended and shall read as follows:

" A Primary school may be established by national or foreign private and legal person in all forms of ownership, in accordance with this Law."

Paragraph 5 is added and shall read as follows:

" A private school may be established in accordance with the principles and standards set forth in this Law and other conditions and criteria defined by regulations in the field of education."

Previous Paragraphs 5 and 6 shall become Paragraphs 6 and 7.

Article 6

After Article 10, new Article 10a shall be added and shall read as follows:

“All public primary schools shall have a catchment area. All students of compulsory school age shall enroll in a school within the catchment area in which they reside, in accordance with Article 12 of the Framework Law.

When forming the catchment area, all children shall be enabled to attend the classes in the school that is the nearest to their place of residence.

All students of compulsory school age shall be enrolled in the school of their catchment area where they are residents, unless the student is enrolled in a private school.

Upon completion of the enrollment period, schools shall provide to the Ministry all information on the number of enrolled students including information on the choice of language that a parent or guardian shall state.

Attendance at the specific school is mandatory, unless the student is attending a private school or is exempted from attendance as further provided in the present Law.

Upon request of the parent of a child, the Ministry may in accordance to Article 12 of the Framework Law, in exceptional cases, exempt the child from the requirement to attend the allocated school referred to in the present Article if this is necessary in order to protect the rights of the child and if it is found to be in the best interests of the child.

The Ministry may issue guidelines for deciding on the requests referred to in the previous Paragraph, provided that the guidelines are consistent with the principles and rights set forth in the present Law.

Upon completion of primary education throughout Bosnia and Herzegovina, students have the right to apply to any secondary school within the Canton. Enrolment in such schools shall be based on fair competition.

The schools are obliged to provide all assistance possible to the parents and students and, according to valid regulations, ensure the necessary conditions for exercising these rights, especially where refugees, displaced persons or returnees are concerned”

Article 7

Paragraph 1 of Article 15 shall be amended and shall read as follows:

“The pedagogical-educational work shall be carried out on the basis of the curricula and syllabi for primary schools, with the common core curriculum.”

Article 8

After Article 15, Article 15a shall be added and shall read as follows:

“The school shall promote and protect religious rights and freedoms, tolerance and dialogue and enable the recognized churches and religious communities in Bosnia and Herzegovina to teach regular religious instruction classes in primary schools in accordance with their beliefs and traditions.

Students shall attend the religious instruction classes in accordance with their religious beliefs and the religious beliefs of their parent(s) or guardian. When enrolling a child in a primary school, a parent or guardian shall select the religious instruction for their child, and those, who do not wish so, may exempt their child from attendance in religious instruction classes, respecting the principle of freedom of conscience and religion.

The school ensures that the students, who do not wish to attend religious education classes, shall in no way be disadvantaged in relation to other students. For such students, the school shall ensure teaching or extracurricular activities for the duration of religious instruction classes.

The religious instruction teacher, who teaches religious instruction in the school, must have a certificate from the

relevant church or religious community in Bosnia and Herzegovina.”

Article 9

Article 16 shall be amended and shall read as follows:

“Curricula and syllabi for all types of schools shall be issued by the Minister in accordance with the common core curriculum as determined by the Curriculum Agency and published in the relevant official gazette in Bosnia and Herzegovina .

Standards of students’ achievement and of assessment of their performance as established by the Standards and Assessment Agency in accordance with Articles 46 and 47 of the Framework Law, shall be adopted and implemented by the Ministry.”

Article 10

Article 18 shall be amended and shall read as follows:

“Children and young people with special needs shall be educated in regular schools and through programmes adapted to their individual needs. An individual programme, adapted to their potential and abilities, shall be developed for each student and shall determine the status of each student in relation to special education and speech pathology.

Children and young people with serious disorders and difficulties in their development may be educated in part or wholly at special educational facilities, where it is impossible to provide appropriate education in regular schools.

Children who are unable to attend a regular school may attend special classes which can be incorporated into a regular school.

Categories, identification procedures, planning and working methods, profile, training, professional development of personnel working with children and youth with special needs, as well as other issues, shall be regulated in more detail through by-laws”.

Article 11

After Article 31, Article 31a shall be added and shall read as follows:

“During educational and other activities in the school, no didactic or other materials shall be used or exposed, nor statements issued by teachers or other school employees which could reasonably be considered offensive to the language, culture or religion of students of any national, ethnic or religious group.

Oversight of implementation of the provisions of Paragraph 1 of this Article, shall be the responsibility of the Ministry. Upon receiving a complaint, an investigation shall be conducted by a special Committee formed by the Minister.

Based upon the proposal of the Committee referred to in the previous Paragraph, the Ministry shall make a final and binding decision”.

Article 12

In Article 47, Paragraph 5 of shall be amended and shall read as follows:

“If the Teacher Council does not accept a complaint, the student or parent has the right to present the complaint to the Ministry which shall make a decision within three days. The decision will be binding on the school”.

Article 13

In Article 57, Paragraph 2 shall be amended and shall read as follows:

“The employees referred to in Paragraph 1 of this Article may be employed for a specific period and without an announcement of a vacancy, in the event of temporary replacement of teachers and expert staff, for a period not

longer than 60 days.”

Paragraph 4 shall be added and shall read as follows:

“ A teacher of religious classes in a school may not be employed if the relevant church or religious community did not issue him/her with a permit to teach the religious class involved”.

Article 14

In Article 68, Paragraph 3 shall be amended and shall read as follows:

“The expert pedagogical oversight shall be performed by the Pedagogical / Education Institutes in accordance with the regulations issued by the Ministry.”

Article 15

In Article 72, Paragraph 1 shall be amended and shall read as follows:

“Each primary school shall be managed by a School Board, elected from school staff, school founder, local community and parents, in accordance with the procedure which shall be proscribed in a by-law issued by the Minister. The election shall be based on the principle of equal representation of representatives of aforementioned structures”.

A new Paragraph 2 shall be added shall read as follows:

“The composition of the School Board must reflect the ethnic composition of the students, parents, school staff and the local community in question, pursuant to the Framework Law.

Previous Paragraphs 2, 3, 4, 5, 6 shall become Paragraphs 3, 4, 5, 6 and 7.

Paragraph 8 shall be added shall read as follows:

“Performance of the duties of a School Board member shall be voluntary and without right to compensation”.

Article 16

In Article 77, Paragraph 2 shall be added and shall read as follows:

“The Director of a primary school shall be responsible for the day-to-day management of the school and for establishing the pedagogical activities of the school”.

Article 17

Article 89 shall be amended and shall read as follows:

“With a view to enhancing connectivity within the community and co-operation between the community, the parent(s) and the school, a Parents’ Council and a Students’ Council shall be established in each primary school.

The Parents’ Council shall be composed of parents, school representatives (teachers, students and administrative staff) and interested representatives of the local community, while ensuring that parents constitute a majority within the Council.

The manner and procedure for establishment and work of the aforementioned Councils shall be set forth in more detail by general school acts and the relevant Council Statues.

The Parents’ Council:

- a) promotes the interests of the school in the community in which the school is situated;
- b) represents the views of students’ parents to the School Board;

- c) encourages active engagement of parents in the work of the school;
- d) informs the School Board of its views whenever it considers it necessary, or, upon the request of the School Board, on every issue related to school work and school management;
- e) participates in the preparation and realization of appropriate projects which encourage and promote educational work in the school; and
- f) nominates and selects the parent representatives to the School Board.

Taking into consideration the age of students attending a school, the school shall help them in establishing the Students' Council, with the following functions:

- a) to promote the interests of the school in the community where the school is located;
- b) to represent students' views on school activities;
- c) to inform the School Board on its views whenever it considers it necessary, or upon the request of the School Board, on any issue related to the work and management of the school.

The manner and procedure for establishment and work of the Students' Council shall be defined by general school acts.

With the aim of encouraging co-operation between the community, schools and parents, a parents-teachers association may be established in primary schools".

Article 18

This Law shall be published in the "Official Gazette of Central Bosnia Canton" and shall enter into force on the day of its publication.