

Decision amending the RS Law on Courts and Judicial Service

In accordance with my authority under Annex 10 of the Dayton Agreement, and recalling Article XI of the Bonn Declaration,

Recalling the text of the Madrid Declaration of 16 December 1998 which emphasized the urgent need for judicial reform in Bosnia and Herzegovina;

Recognizing the importance of establishing a truly independent judiciary at all levels of governance as an integral element of a modern democratic state and in particular the need for a process of selection, dismissal and discipline for judges based on merit instead of political affiliation;

Acknowledging the efforts of those in the domestic legal community who drafted the Law on Courts and Judicial Service as well as the efforts of the National Assembly of the Republika Srpska which passed similar legislation;

All this considered, born in mind and noted, I hereby issue the following

DECISION

On Amending the Law on Courts and Judicial Service

The Law on Courts and Judicial Service, published in the Official Gazette of the Republika Srpska (n. 13/2000) on 25 May 2000, is hereby amended as follows.

Article 1

In Article 5, paragraph 5, the words "like people's deputies" are deleted.

Article 2

In Article 34, paragraph 4, the words "Minister of Justice" are replaced by the words "High Judicial Council".

Article 3

In Article 46, paragraph 4, the words "Minister of Justice of Republika Srpska" are replaced by the words "the Public Prosecutor of the Republic"; the words "the President of the Republika Srpska Bar Association" are deleted; and the word "two" is replaced by the word "three" in the context of "two experts from among eminent lawyers"

In Article 46, paragraph 9, the following is added: "Measurable and identifiable efforts must be made towards achieving multi-ethnicity and gender balance".

At the foot of Article 46 is added a final paragraph:

"The Supreme Court will carry out the professional and administrative tasks for the High Judicial Council."

Article 4

In Article 47, paragraph 6, the following sentence is added: "Measurable and identifiable efforts must be made towards achieving multi-ethnicity and gender balance".

Article 5

In Article 55, paragraph 2 is deleted, and substituted by:

" The initiative to relieve a judge or court president of his/her judicial duty may come from the High Judicial Council on its own initiative or upon referral to the High Judicial Council from the responsible court president or any citizen

of Bosnia and Herzegovina.”

Article 6

In Article 105, paragraph 2 is deleted, and substituted by the following three paragraphs:

“The High Judicial Council shall conduct a Comprehensive Review of the suitability of all judges who are holding office at the time of the enactment of this Law, during a period of 18 months from the date of its constitutive session. The High Judicial Council shall have the power to compel the attendance of witnesses and the production of information, and to sanction refusal to cooperate with the High Judicial Council. The High Judicial Council shall, within 30 days of its constitutive session, establish criteria for unsuitability and detailed rules of procedure for the review, including procedures for hearings, in its Book of Rules.”

The limitation period referred to in paragraph 1 of Article 72 shall not apply to the Comprehensive Review.

At the conclusion of its procedures, the High Judicial Council shall recommend the removal of unsuitable judges to the National Assembly of the Republika Srpska.

Article 7

This Law comes into effect on the eighth day after it is published in the “Official Gazette of the Republika Srpska”

Sarajevo, 9 June 2000

Wolfgang Petritsch
High Representative

Office of the High Representative