

Decision On appointment of judges and on the establishment of the Court of Bosnia and Herzegovina

In the exercise of the powers vested in me 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;

Recalling further paragraph 3 of Annex II (Rule of Law and Human Rights) of the Declaration of the Peace Implementation Council which met in Madrid on 15 and 16 December 1998, according to which the establishment of judicial institutions at the State level, which meet an established constitutional need to deal with criminal offences perpetrated by public officials of Bosnia and Herzegovina in the course of their duties, and with administrative and electoral matters, is a precondition for the establishment of the rule of law in Bosnia and Herzegovina;

Considering the High Representative's Decision on 12 November 2000 (Decision no. 50/00 Official Gazette no. 29/00 of 30 November 2000) enacting the Law on the Court of Bosnia and Herzegovina to ensure the effective exercise of the competencies of the State of Bosnia and Herzegovina and respect for human rights and the rule of law in the territory of Bosnia and Herzegovina;

Considering further Article 65 of the said Law which provides that "If six months after the entry into force of the present law, judges are not elected pursuant to Article 4, the High Representative may appoint them for a maximum period of five years";

Bearing in mind that the Appellate Division of the Court of Bosnia and Herzegovina is pursuant to the provisions of Chapter 6 of the Election Law of Bosnia and Herzegovina (Official Gazette no. 23/01 of 19 September 2001), one of the organs charged with securing the protection of the electoral rights of the citizens of Bosnia and Herzegovina and, that it has competence to hear appeals from Decisions of the Election Commission of Bosnia and Herzegovina and of the Election Complaints and Appeal Council;

Further bearing in mind that on 19 April 2002 the said Election Commission announced 5 October 2002 as the date for elections in Bosnia and Herzegovina (Decision on the announcement of elections no.03-207/02), marking the beginning of the period for the process of certification of political parties, candidates, coalitions and lists of independent candidates together with any other necessary procedures before the Election Commission which may require the protection of electoral rights by the Appellate Division of the Court of Bosnia and Herzegovina;

Taking into account theselection and nomination process carried out by the Commission for the Nomination of Judges of the Court of Bosnia and Herzegovina which resulted in a list of 19 nominees

Taking into account the totality of the matters aforesaid I hereby issue the following:

DECISION

On appointment of judges and on the establishment of the Court of Bosnia and Herzegovina

1. On the basis of Article 65 of the Law on the Court of Bosnia and Herzegovina, I hereby appoint as judges of the Court of Bosnia and Herzegovina (*in alphabetic order*):

-Babic, Milos

-Halilagic, Suada

-Ilic, Venceslav

-Morait, Branko

-Niksic, Muhidin

-Popovac, Nedzad

-Raguz, Martin

2. These appointments shall take effect from the date hereof for a period of three years. Judges initially appointed shall be eligible for reappointment.

3. From the date of this Decision the Court of Bosnia and Herzegovina shall be established.

4. The judges hereby appointed shall form the Plenum of the Court and the Appellate Division, therefore they shall elect the Court's President and the President of the Appellate Division. They shall draw up and adopt the rules of procedure of the Court and the rules of procedure of the Appellate Division. The President of the Court and Plenum of the Court shall determine the organizational structure of the Court and the requirements and terms of reference for staffing. They shall in addition prepare and implement the court budget.

5. The initial primary task of the Appellate Division shall be to discharge the electoral appeals competence herein before referred to. To that end, the said judges shall perform all necessary duties entrusted by law.

6. The authorities at all levels of Bosnia and Herzegovina shall provide all necessary technical and material conditions for the immediate commencement of the operation of the Court.

In particular, the Ministry of Civil Affairs and Communications of Bosnia and Herzegovina shall, together with the Ministry of Treasury of Bosnia and Herzegovina, elaborate and adopt all necessary regulations on the calculation of salaries and conditions of the court's staff, and in addition provide for the necessary expenses for the provisional functioning of the Court. In addition the said Ministry of Civil Affairs and Communications shall provide all such temporary staffing needs as may be required for the efficient functioning of the Court.

This Decision shall come into effect forthwith and shall be published without delay in the official Gazettes of Bosnia and Herzegovina, of the Federation of Bosnia and Herzegovina, of the Republika Srpska and of Brcko District.

Sarajevo, 8 May, 2002

Wolfgang Petritsch

High Representative