

Decision Imposing the Law on Civil Service in the Institutions 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 the importance which the international community has attributed to the adoption of a Law on Civil Service in the Institutions of Bosnia and Herzegovina as part of establishing the rule of law and reinforcing the common institutions in Bosnia and Herzegovina;

Noting by way of example of the said attribution, the priority given by the Peace Implementation Council at its meeting held in Madrid on 16 December 1998 to the creation of a professional and apolitical civil service as a vital component of any effectively functioning state; and noting further the full support it expressed for the High Representative's determination to strengthen the common institutions by working with the Bosnia and Herzegovina authorities to adopt a Law on Civil Service in the Institutions of Bosnia and Herzegovina which would provide for the selection, management, career progression, compensation and social benefits of public employees in a such a way as to foster professionalism and political independence;

Recalling that the Peace Implementation Council, at its meeting in Brussels on 23-24 May 2000, called on the authorities of Bosnia and Herzegovina to adopt such law as aforesaid by September 2000 and recalling further that the High Representative was urged to use his authority in accordance with his mandate to ensure full and accelerated implementation in all sectors of civilian implementation;

Considering that the adoption of the Civil Service Law was a requirement referred to in the Road Map of the European Union for Bosnia and Herzegovina and its adoption is an obligation of Bosnia and Herzegovina to meet EU guidelines;

Considering that the Law on Civil Service in the Institutions of Bosnia and Herzegovina, drafted in partnership between the International Community and the Council of Ministers, was adopted by the said Council of Ministers of Bosnia and Herzegovina in September 2001; and considering further that both Houses of the Parliamentary Assembly of Bosnia and Herzegovina adopted the Law in different versions at the beginning of 2002;

Concerned that the Parliamentary harmonisation commission of Bosnia and Herzegovina, to which the law was referred more than two months ago, has failed to agree on a consolidated version of the Law.

Concerned that the delay in the adoption of the Law has made it impossible to start the process of establishing a professional, merit-based civil service to provide the non-partisan expertise and professional continuity which meets best European standards;

Having considered and borne in mind all the matters aforesaid, I hereby issue the following

DECISION

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This Decision and the Law attached hereto which forms part thereof shall be published without delay in the Official Gazette of Bosnia and Herzegovina, of the Federation of Bosnia and Herzegovina and of the Republika Srpska.

The attached law shall come into force, as provided for by article 70 thereof, namely eight days after the date of such publication in the Official Gazette of Bosnia and Herzegovina on an interim basis, until such time as the Parliamentary Assembly of Bosnia and Herzegovina adopts this Law in due form, without amendment and with no conditions attached.

Sarajevo, 23 May 2002

Wolfgang Petritsch

High Representative