

Decision Imposing the Law on Conflict of Interest in Governmental 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 Conflict of Interest in Governmental Institutions of Bosnia and Herzegovina as part of the fight against corruption in Bosnia and Herzegovina;

Noting by way of example of the said attribution, the priority given by the Peace Implementation Council held in Brussels on 23 and 24 May 2000, and the Annex thereto, to regulate conflict of interests through legislation and noting further the Declaration of the said Council, pursuant to which the adoption of a Law on Conflict of Interest in Governmental Institutions of Bosnia and Herzegovina was envisaged by September 2000;

Recalling the full support given to the OHR comprehensive Anti-Corruption Strategy as a solid basis for the fight against corruption; and recalling further that the above mentioned Council called on all public officials in Bosnia and Herzegovina to give their active and unreserved support to this Strategy;

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 the repeated and deep concern expressed by the international community, inter alia through the Declaration of the said Council at its said meeting in Brussels on 23/24 May 2000, over ingrained corruption in Bosnia and Herzegovina which apart from hindering the development of the market economy undermines democratic governance and wastes public resources; and considering further the immediate requirement of measures for the improvement transparency in public budgets and institutional capacity-building to end the systemic nature of corruption.

Noting therefore that a Law regulating conflict of interest between those entrusted with public functions and those company managers who deal with the very same public authorities, is a pre-condition in order to avoid inappropriate relations between the world of politics and the business world;

Considering that the Law on Conflict of Interest in Governmental Institutions of Bosnia and Herzegovina, drafted in partnership between the International Community, the Council of Ministers and the Entities’ Ministries of Justice, was adopted by the said Council of Ministers of Bosnia and Herzegovina in December 2001;

Regretting that notwithstanding the matters aforesaid, which should have enabled the Parliamentary Assembly of Bosnia and Herzegovina to have passed the Law on Conflict of Interest in Governmental Institutions of Bosnia and Herzegovina through the regular procedure, the said Law was rejected by the House of Peoples on 21 March 2002;

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

DECISION

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This Decision and the Law attached hereto which form part thereof 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 the District of Brcko.

The attached law shall come into force, as provided for by article 23 thereof, namely on the day following the certification of the elections results in respect of the October 2002 elections 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