

Decision Enacting the Criminal Code of Bosnia and Herzegovina

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 “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 12.1 of the Declaration of the Peace Implementation Council, which met in Madrid on 15 and 16 December 1998, which made clear that the said Council considered that the establishment of the rule of law, in which all citizens had confidence, was a prerequisite for a lasting peace, and for a self-sustaining economy capable of attracting and retaining international and domestic investors;

Considering the need that the criminal legislation standards existing in international law are incorporated into the criminal legislation of Bosnia and Herzegovina, which would ensure legal certainty and protection of human rights throughout Bosnia and Herzegovina;

Recalling that pursuant to the aforesaid, the Ministry of Civil Affairs and Communications of Bosnia and Herzegovina prepared a draft text of the Criminal Code of Bosnia and Herzegovina which was agreed upon with the Office of the High Representative, which the Council of Ministers of Bosnia and Herzegovina adopted at its 95th session of December 19, 2002, and afterwards sent it to the Parliamentary Assembly of Bosnia and Herzegovina whose House of Representatives at its 7th session held on January 13, 2003 did not adopt the proposal of the Council of Ministers to treat the proposed Code pursuant to Article 104 of the Rules of Procedure of the House of Representatives;

Regretting that notwithstanding the matters aforesaid, which should have enabled the Parliamentary Assembly of Bosnia and Herzegovina to pass the said Criminal Code of Bosnia and Herzegovina, the said Code has not been adopted yet;

Bearing in mind the commitment of the Entities and the Brčko District of Bosnia and Herzegovina to harmonize their respective criminal codes with the Criminal Code of Bosnia and Herzegovina, with the aim of advancing the robust fight against crime throughout Bosnia and Herzegovina which would otherwise continue to infringe on the economic, fiscal, commercial and other social rights and interests of the citizens of Bosnia and Herzegovina, and in particular noting the progress achieved so far in that process;

Mindful both of the urgency and of the need to adopt the Criminal Code of Bosnia and Herzegovina for all the reasons as aforesaid and in order to protect the interests of the citizens of Bosnia and Herzegovina;

Having considered and borne in mind all these matters, the High Representative hereby issues the following

DECISION

Enacting the Criminal Code of Bosnia and Herzegovina, which is hereby attached as an integral part of this Decision. The said Law shall enter into force as a law of Bosnia and Herzegovina, with effect from the date provided for in Article 252 thereof on an interim basis until such time as the Parliamentary Assembly of Bosnia and Herzegovina adopts this law in due form, without amendments and with no conditions attached.

This Decision shall enter into force forthwith and shall be published without delay in the Official Gazette of Bosnia and Herzegovina.

THE CRIMINAL CODE OF BOSNIA AND HERZEGOVINA

Sarajevo, 24 January 2003

*Paddy Ashdown
High Representative*