

Decision On Appointment of New Members of the High Judicial and Prosecutorial Councils of the Federation of BiH and of the Republika Srpska

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 which "may include actions against persons holding public office or officials...who are found by the High Representative to be in violation of legal commitments made under the Peace Agreement or the terms for its implementation";

Taking into account the two Decisions of the High Representative issued on 23 May 2002, Amending the Constitution of the Federation of Bosnia and Herzegovina, and Amending the Constitution of the Republika Srpska, wherein the constitutional foundations were enumerated for the creation of the High Judicial and Prosecutorial Council of the Federation of Bosnia and Herzegovina and the High Judicial and Prosecutorial Council of Republika Srpska.

Taking into account further the Laws on the High Judicial and Prosecutorial Council in force in Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina 15/02, 26/02 and 35/02, Official Gazette of the Federation of Bosnia and Herzegovina 22/02, 41/02, 42/02 and 19/03, and Official Gazette of Republika Srpska 31/02 and 55/02), which establish the legal framework for the High Judicial and Prosecutorial Councils in Bosnia and Herzegovina and provide for the High Representative to appoint international and national members to serve on the Councils;

Considering the appointments to the Court of Bosnia and Herzegovina of Branko Peric, member of the Republika Srpska High Judicial and Prosecutorial Council, and Davorin Jukic, member of the Federation High Judicial and Prosecutorial Council, whose mandates are terminated under Articles 6(2) and 7(1) of the above respective laws, and considering further the existing vacant post at the Federation High Judicial and Prosecutorial Council, due to the death of Professor Kasim Begic, and the resignation of Silvio Bonfigli, international member of the High Judicial and Prosecutorial Councils;

Recognising the need for the assurance that all international and European standards are upheld during the crucial transitional period of the Councils' existence when the restructuring of the courts and prosecutors offices will take place and a selection of judges and prosecutors to fill the restructured posts will occur; and

Recognising further the necessity of independence and impartiality in the work of the Councils in order to achieve the essential purposes underlying the laws and constitutional amendments aforementioned, and the invaluable benefit that would accrue to the people and judicial system of Bosnia and Herzegovina from the utilisation of international expertise during the transitional period;

For the reasons hereinafter set out the High Representative hereby issues the following

DECISION

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Bosnia and Herzegovina and of the Republika Srpska.

As provided for in Article 66 of the Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina 15/02, 26/02 and 35/02), Article 76 of the Law on the High Judicial and Prosecutorial Council of the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of Bosnia and Herzegovina 22/02, 41/02, 42/02 and 19/03) and Article 76 of the Law on the High Judicial and Prosecutorial Council of Republika Srpska (Official Gazette of Republika Srpska 31/02 and 55/02),

Mr. Malcolm Simmons is appointed as a member of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, the High Judicial and Prosecutorial Council of the Federation of Bosnia and Herzegovina and the High Judicial and Prosecutorial Council of Republika Srpska in respect of the transitional period until 31 December 2003.

Ms. Katarina Tomic, President of the Municipal Court in Vares, and **Mr. Plamenko Custovic**, Advocate, are appointed as members of the High Judicial and Prosecutorial Council of the Federation of Bosnia and Herzegovina.

Mr. Slobodan Stanisic, Advocate, is appointed as a member of the High Judicial and Prosecutorial Council of Republika Srpska.

All the appointments under this Decision shall take effect from the date hereof.

This Decision shall enter into force forthwith and shall be published without delay in the Official Gazette of Bosnia and Herzegovina, in the Official Gazette of the Federation of Bosnia and Herzegovina, in the Official Gazette of Republika Srpska and in the Official Gazette of the Brcko District of Bosnia and Herzegovina.

Sarajevo, 01 September 2003

*Paddy Ashdown
High Representative*