

Decision proposing the Law on the Intelligence and Security Agency of BiH to the Parliamentary Assembly of BiH

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";

Considering the need for independent information and analysis relevant to the security of Bosnia and Herzegovina, and in particular the need for establishment of a mechanism for collecting information regarding acts punishable under international law and threats to the existence or to the constitutional order of Bosnia and Herzegovina;

Considering further that the High Representative issued a Decision on 29 May 2003 Establishing the Expert Commission on Intelligence Reform to carry out tasks as set out therein;

Recognizing that the Expert Commission worked with diligence and professionalism to meet the deadline and to produce the draft Law on the Intelligence and Security Agency of Bosnia and Herzegovina which draft Law, before being delivered to the Council of Ministers on 16 September 2003, was commented upon by a number of international experts as well as by domestic organizations, who praised the draft Law and pointed out, *inter alia*, that many of its features meet the highest European standards and ranked it among the most effective of t such laws in Europe;

Recalling that the PIC Steering Board Political Directors at its session held on September 26, 2003, among other things, "strongly recommended that the Council of Ministers and the Parliamentary Assembly of BiH consider and pass the draft Law on the Intelligence and Security Agency of BiH as soon as possible and, in doing so, take a decisive step to ensure that the intelligence-security sector is put firmly back into the service of this country's citizens and the State of BiH";

Recalling further that in a letter of the High Representative of 26 November 2003, the Chairman and two Deputy Chairmen of the Council of Ministers were urged to proceed without any further delay and submit the draft Law to the full Council of Ministers by 15 December 2003; otherwise the High Representativeshall have no alternative but to submit it in lieu of the Council of Ministers to the Parliamentary Assembly;

Reiterating that, notwithstanding the matters aforesaid, the Chairman and two Deputy Chairmen of the Council of Ministers did not submit the draft Law to the Council of Ministers;

Mindful both of the urgency and of the need to adopt the Law on the Intelligence and Security Agency of Bosnia and Herzegovina for the aforesaid reasons and in order to protect the interests of the citizens of Bosnia and Herzegovina by ensuring the highest standards of internationally recognized human rights within Bosnia and Herzegovina, including those rights included in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its protocols;

Having considered, noted and borne in mind all the matters aforesaid, the High Representative hereby issues the following:

DECISION

proposing the Law on the Intelligence and Security Agency of Bosnia and Herzegovina to the Parliamentary Assembly of Bosnia and Herzegovina

Article 1

The Law on the Intelligence and Security Agency of Bosnia and Herzegovina, which is enclosed herewith, is hereby submitted to the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina in accordance with article 66 of the Rules of Procedure of the Council of Ministers (Official Gazette of BiH 21/03).

Article 2

The House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina shall decide on the most appropriate legislative procedure with a view toward ensuring the adoption of the Law by the Parliamentary Assembly of Bosnia and Herzegovina no later than 1st of March, 2004.

Article 3

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

LAW ON THE INTELLIGENCE AND SECURITY AGENCY OF BOSNIA AND HERZEGOVINA

Sarajevo, 17 December 2003

*Paddy Ashdown
High Representative*