

Decision Enacting the Law on the Amendments to the Law on Court 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;

Recalling in addition paragraph 3 of Annex II (Rule of Law and Human Rights) to the said Declaration, according to which the establishment of judicial institutions at the State level, which meet an established constitutional need to deal with criminal offences perpetrated by public officials of Bosnia and Herzegovina in the course of their duties, and with administrative and electoral matters, is a precondition for the establishment of the rule of law in Bosnia and Herzegovina;

Bearing in mind the reinvigorated strategy for judicial reform to strengthen the Rule of Law efforts in Bosnia and Herzegovina in 2002/03 which was endorsed by the Steering Board of the Peace Implementation Council on 28 February 2002 and noting that the aforementioned strategy was devised in response to calls by the authorities in Bosnia and Herzegovina for firmer International Community actions to tackle economic crime, corruption and problems inherent in the judicial system;

Considering that the Steering Board of the Peace Implementation Council in Sarajevo on 7 May 2002 called upon the local authorities to ensure the rapid establishment of the Court of Bosnia and Herzegovina reminding the Bosnia and Herzegovina authorities that the Appellate Division of the Court needs to be operational in order to adjudicate election complaints and urging the authorities to immediately find a sustainable solution to the problem of the location of the Court;

Considering further that the communiqué of the Steering Board of the Peace Implementation Council issued at Sarajevo on 31 July 2002 stated that the Board welcomes the creation of the Special Chambers and endorses the proposal of the High Representative to include national and international Judges and Prosecutors in a Special Panel/Department for Organized Crime, Economic Crime and Corruption in the Court of Bosnia and Herzegovina and the Prosecutor's Office of Bosnia and Herzegovina;

Bearing in mind that criminal activities continue to infringe on the economic, fiscal, commercial and other social rights and interests of the citizens of Bosnia and Herzegovina and that the establishment of a special section for Organised Crime, Economic Crime and Corruption within the aforesaid Court of Bosnia and Herzegovina will advance the robust fight against crime in Bosnia and Herzegovina;

Convinced of the vital importance to Bosnia and Herzegovina of ensuring that the rule of law is strengthened and followed in order to create the ground for economic growth and foreign investment and for all the reasons as aforesaid;

The High Representative hereby issues the following

DECISION

Enacting the Law on the Amendments to the Law on Court of Bosnia and Herzegovina,

The said Law, which is hereby attached as an integral part of this Decision, shall enter into force as a law of Bosnia and Herzegovina, with effect from the date provided for in Article 3 thereof, 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.

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

Sarajevo, 6 February, 2004

Paddy Ashdown
High Representative

LAW ON THE AMENDMENTS TO THE LAW ON THE COURT OF BOSNIA AND HERZEGOVINA

The Law on the Court of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina No.29/00, No. 15/02, No.24/02, No.3/0 No. 37/03), is hereby amended as follows.

Article 1

In Article 24, paragraph 2 shall be deleted.

Previous paragraphs 3 and 4 shall become paragraphs 2 and 3 respectively.

Article 2

In Article 65, after paragraph 1, the following paragraphs 2, 3 and 4 shall be inserted:

"2. An International judge of the Special Panels may serve as a preliminary proceeding judge, a preliminary hearing judge or as a single trial judge in cases related to the organized crime, economic crime and corruption.

3. An International judge of the Special Panels may serve as a judge in the panel as referred to in Article 24 (6) of the Criminal Procedure Code of Bosnia and Herzegovina, including the panel as referred to in Article 16 of the Law on Protection of Witnesses under Threat and Vulnerable Witnesses of Bosnia and Herzegovina, in cases related to the organized crime, economic crime and corruption.

4. An International judge of the Special Panels shall not participate in the work of any panel of the Criminal or Administrative Division other than provided for in the previous paragraphs."

Previous paragraphs 2 and 3 shall become paragraphs 5 and 6 respectively.

Article 3

This Law shall enter into force on 6 February 2004 and shall be published in the Official Gazette of Bosnia and Herzegovina.