

Decision enacting the Law on Amendments to the Law on Civil Service of the Federation 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 “[f]acilitate, 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 attach to the creation of a professional Civil Service in the context of establishing the rule of law in Bosnia and Herzegovina;

Noting, by way of example of the said attachment, the priority given by the Peace Implementation Council at its meeting held in Madrid on 16 December 1998 to the creation of a professional and apolitical civil service as a vital component of any effectively functioning state; and noting further the full support it expressed for the High Representative’s determination to strengthen the common institutions by working with the Bosnia and Herzegovina authorities to provide for a professional and politically independent civil service in governmental institutions of Bosnia and Herzegovina;

Recalling that the Law on Civil Service of the Federation of Bosnia and Herzegovina was adopted by the Parliament of the Federation of Bosnia and Herzegovina on 3 June 2003 (Official Gazette of Federation of Bosnia and Herzegovina, 29/03);

Endorsing the recommendation of the Public Administration Reform to streamline public administration at all levels of Government and rationalising the employment in the public sector to make it cost-effective;

Considering that Bosnia and Herzegovina is in the process of establishing new institutions or of developing existing ones following transfers of competencies from the Entities to Bosnia and Herzegovina or following the adoption of legislation pursuant to which the State of Bosnia and Herzegovina has assumed, under the Constitution of Bosnia and Herzegovina, responsibilities that were previously undertaken by the Entities;

Further considering that the timely establishment of certain of those institutions constitutes a prerequisite for further integration into Euro-Atlantic institutions as well as for fulfilling the conditions put forward in the European Union’s feasibility study and the NATO requirements for Partnership for Peace.

Conscious that the proper functioning of the said institutions in a manner that enables efficient and timely delivery of services will require transfer of those civil servants who have experience in the relevant field;

Having considered and borne in mind the totality of the matters aforesaid, the High Representative hereby issues the following

Decision

enacting the Law on Amendments to the Law on Civil Service of the Federation of Bosnia and Herzegovina

The Law set out hereunder forms an integral part of this Decision and shall enter into force on the date provided

for in Article 2 thereof, on an interim basis until adopted by the Parliament of the Federation of Bosnia and Herzegovina 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 the Federation of Bosnia and Herzegovina.

Sarajevo, 20 April 2004

*Paddy Ashdown
High Representative*

Law on Amendments to the Law on Civil Service of the federation of Bosnia and Herzegovina

Article 1

After Article 35 of the Law on Civil Service of the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of Bosnia and Herzegovina No. 29/03), a new Article 35a shall be added to read as follows:

“Article 35a

External Transfer and Reassignment

“1. An external transfer and a reassignment of a civil servant from a Civil Service authority to an Institution of Bosnia and Herzegovina may take place in case of establishment of a new institution of Bosnia and Herzegovina pursuant to a transfer of competenc(ies) from the Federation of Bosnia and Herzegovina to Bosnia and Herzegovina, or upon assumption by Bosnia and Herzegovina, under the Constitution, of responsibilities previously exercised by the Federation of Bosnia and Herzegovina.

2. The recruitment procedure for external transfer provided for in Paragraph 1 of this Article may be regulated by law of Bosnia and Herzegovina. When the external transfer recruitment procedure conducted pursuant to the law of Bosnia and Herzegovina does not provide enough candidates to be transferred from the Federation of Bosnia and Herzegovina to the Institution of Bosnia and Herzegovina, the Civil Service authority shall propose to the Head of the Institution of Bosnia and Herzegovina that the Civil Service authority reassigns (a) civil servant(s) to such Institution. Should (a) civil servant(s) not accept the position to which he/she is reassigned, he/she shall be made redundant and shall be entitled to the rights related to redundancy provided by law.

3. The civil servant(s) transferred and reassigned pursuant to this Article shall not be entitled to the rights related to the termination of employment provided by laws.”

Article 2

This Law shall enter into force on 21 April 2004, shall be immediately published on the official website of the Office of the High Representative and shall be published in the Official Gazette of the Federation of Bosnia and Herzegovina without delay.