

Decision Enacting the Law on Amendments to the Criminal Procedure Code 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 “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;

Bearing in mind the February 2002 direction of the Steering Board of the Peace Implementation Council to strengthen Rule of Law in Bosnia and Herzegovina by the drafting and implementation of new criminal legislation and the support of judicial and prosecutorial institutions throughout Bosnia and Herzegovina;

Recognizing that while the privilege against testifying in a court proceeding serves the important policy interest of protecting family bonds, it should be invoked in rare circumstances;

Mindful of the fact that the law places a responsibility on all citizens to cooperate with the investigation and prosecution of cases;

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

DECISION

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(Official Gazette of the Federation of Bosnia and Herzegovina , Nos. 35/03, 37/03, and 56/03)

which is hereby attached as an integral part of this Decision.

The said Law shall be published on the official website of the Office of the High Representative and shall enter into force as a law of the Federation of Bosnia and Herzegovina, with immediate effect, on an interim basis, until such time as the Parliament of the Federation of Bosnia and Herzegovina adopts this Law in due form, without amendment 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 ”.

Law on amendments to the criminal procedure code of the federation of bosnia and herzegovina

The Criminal Procedure Code of the Federation of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina , Nos. 35/03, 37/03 and 56/03) shall be amended as follows:

Article 1

In Article 21 (*Basic terms*), sub-paragraph g) shall be amended to read:

“g) The term “authorised official” refers to a person who has appropriate authority within the police bodies of Bosnia and Herzegovina, including the State Investigation and Protection Agency and the State Border Service, the police bodies of the responsible ministries of interior in the Federation, judicial and financial police, as well as within the customs bodies, tax bodies and military police bodies of Bosnia and Herzegovina or in the Federation of Bosnia and Herzegovina;”.

After sub-paragraph s), the new sub-paragraph t) shall be added, which shall read:

“t) The terms “spouse” and “extramarital partner” refer to a person having such status pursuant to family law.”

Article 2

In Article 97 (*Persons Allowed to Refuse to Testify*), paragraph 1, sub-paragraph b) shall be amended to read:

“b) a parent or child, an adoptive parent or adopted child of the suspect or accused.”

Sub-paragraph c) shall be deleted.

Article 3

In Article 308 (*Subjects of the Appeal*), paragraph 2, the words “direct blood relative, adoptive parent, adopted child, brother, sister and foster parent” shall be replaced by the words “parent or child and adoptive parent or adopted child”.

Article 4

This Law shall enter into force forthwith and shall be published in the “Official Gazette of the Federation of Bosnia and Herzegovina ” without delay.