

Decision Enacting the Law on Amendment to the Law on Pardon 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 all the efforts made to implement the reinvigorated strategy for judicial reform to strengthen the Rule of Law in Bosnia and Herzegovina and its Entities in 2002/03, which was endorsed by the Steering Board of the Peace Implementation Council on 28 February 2002 and which efforts are, among others, reflected in adoption of new criminal legislation and in strengthening of judicial and prosecutorial institutions throughout Bosnia and Herzegovina;

Noting that the Law on Pardon lacks requirements of democratic principles of transparency, justification and executive accountability in a case the pardon procedure is initiated ex officio;

Noting further that such situation may result in a number of pardons given by ex officio action of the executive authority, thus interfering with judicial processes, without being properly petitioned to do so;

Mindful of the need to ensure the respect for judicial decisions, transparency and the publicity of the criminal justice system;

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

DECISION

Enacting the Law on Amendment to the Law on Pardon of the Federation of Bosnia and Herzegovina

(Official Gazette of the Federation of Bosnia and Herzegovina

Nos. 9/96, 47/01 and 28/04)

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".

Sarajevo, 26 November 2004

Paddy Ashdown
High Representative

Law on amendment to the Law on pardon of the Federation of Bosnia and Herzegovina

The Law on Pardon (Official Gazette of the Federation of Bosnia and Herzegovina, Nos. 9/96, 47/01 and 28/04) shall be amended as follows:

Article 1

In Article 8, paragraph 1, the words "or ex officio" shall be deleted.

Paragraph 3 shall be deleted.

Article 2

Article 9 shall be deleted.

Article 3

In Article 12, paragraph 3 shall be deleted.

Article 4

This Law shall enter into force forthwith and shall be published without delay.