

Decision On Appointment of Members of and Advisors to the High Judicial and Prosecutorial Council 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”;

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;

Mindful of paragraph I.2.a of the Conclusions of the said Bonn Conference which recognised “that an impartial and independent judiciary” was “essential to the rule of law and reconciliation within Bosnia and Herzegovina”, that the judicial appointment process must be based on merit, that a judicial training facility must be established, and that the monitoring of the judicial system was an essential element of the aforesaid process;

Noting the Communiqué by the Steering Board of the Peace Implementation Council of 28 February 2002, in which the Steering Board endorsed the reinvigorated strategy for judicial reform proposed by the Independent Judicial Commission for 2002/03, among other things recognising the importance of the creation of a High Judicial Council for BiH and the restructuring of the court system, sentiments that were reiterated in a further Communiqué of 7 May 2002;

Recalling the enactment of the laws on the High Judicial and Prosecutorial Council for the Federation of Bosnia and Herzegovina, the High Judicial and Prosecutorial Council of Republika Srpska, the High Judicial and Prosecutorial Council of Bosnia and Herzegovina and the Directive of 23 May 2002, in order to strengthen the independence of the judiciary and provide for the re-appointment of judges and prosecutors in line with the restructuring of courts and prosecutors’ offices;

Welcoming that the Entities reached an Agreement on the transfer of certain responsibilities relating to the judiciary to the level of Bosnia and Herzegovina, facilitating the creation of a single High Judicial and Prosecutorial Council at the level of Bosnia and Herzegovina;

Noting that the law on the single High Judicial and Prosecutorial Council at the level of Bosnia and Herzegovina entered into force on 1 June 2004 and that it is necessary to secure a seamless transition to the newly-established Council as well as to guarantee continuous operation, membership continuity, continuous international presence, geographical representation and gender and ethnic balance;

Taking into account that several national institutions proposed candidates for the national members of the High Judicial and Prosecutorial Council as provided by Law,

I hereby issue the following

DECISION

On Appointment of Members of and Advisors to the High Judicial and Prosecutorial Council of Bosnia and Herzegovina

Article 1

Appointment of national members of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina

(1) The following persons are hereby appointed as members of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina (hereinafter: the Council) established under the Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, Official Gazette of Bosnia and Herzegovina, No 25/04, (hereinafter: the Law) for a term of two years, starting from 3 June 2004.

- a) Ms. Alma Tirić, Prosecutor's Office of the Federation of Bosnia and Herzegovina
- b) Mr. Stevan Savić, Supreme Court of Republika Srpska
- c) Ms. Marica Vučetić-Zelenbabić, Doboj District Court
- d) Mr. Mirza Jusufović, Brcko District of Bosnia and Herzegovina
- e) Ms. Danka Vučina, Attorney, Federation of Bosnia and Herzegovina
- f) Mr. Slobodan Stanišić, Attorney, Republika Srpska

(2) The following persons are hereby appointed as members of the Council for a term of 4 years, starting from 3 June 2004:

- a) Mr. Branko Perić, Court of Bosnia and Herzegovina
- b) Ms. Medžida Kreso, Prosecutor's Office of Bosnia and Herzegovina
- c) Ms. Ljiljana Filipović, Supreme Court of the Federation of Bosnia and Herzegovina
- d) Mr. Amor Bukić, Prosecutor's Office of Republika Srpska
- e) Mr. Mladen Jurišić, Mostar Cantonal Court
- f) Ms. Slađana Milojković, Tuzla Cantonal Prosecutor's Office
- g) Ms. Snježana Petković, District Prosecutor's Office Banja Luka

(3) Appointments of those members of the Council who are not appointed under this Decision shall be conducted pursuant to the Law.

Article 2

Appointment of international members of the Council

(1) The following persons are hereby appointed as international members of the Council:

- a) Mr. Michael O'Malley, Prosecutor, United States
- b) Dr. Malcolm Simmons, Judge, United Kingdom

c) Mr. Sven Marius Urke, Attorney, Norway

(2) The international members shall serve a term of one year starting from 3 June 2004. During this period the panels established under Article 12 of the Law, the nomination sub-councils established under Article 37 and 38 of the Law, the interview panels established under Article 38, paragraph 4 of the Law and the first and second instance disciplinary panels established under Article 60, paragraph 1 of the Law, shall, to the extent possible, be composed of at least one international member.

(3) In addition to their responsibilities as members of the Council, Mr. Michael O'Malley and Mr. Sven Marius Urke shall also assist the Secretariat as co-coordinated by the Director of the Secretariat.

Article 3

Appointment of an Adviser to the Office of the Disciplinary Counsel

(1) Mr. David Upcher, Attorney from United States, is hereby appointed as an Adviser to the Office of the Disciplinary Counsel of the Council, starting from 3 June 2004 until 31 December 2004.

(2) Mr. David Upcher shall act as Disciplinary Counsel under Article 64 of the Law from 3 June 2004 until such time as a Disciplinary Counsel appointed by the Council pursuant to the Law has taken up office, but in any event no later than 31 December 2004.

Article 4

Appointment of an Adviser to the Secretariat of the Council

Ms Geralyn Busnardo, Attorney, United States, is hereby appointed an Adviser to the Secretariat of the Council under the co-ordination of the Director of the Secretariat, for the period of 1 year, starting from 3 June 2004, unless otherwise provided by High Representative.

Article 5.

Entry into force and publication

This Decision shall come into force forthwith and shall be published in the "Official Gazette of Bosnia and Herzegovina".

Sarajevo, 3 June 2004

*Paddy Ashdown
High Representative*