

Decision Further Extending the Mandate of an International Member of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina and Appointing Sven Marius Urke to Carry Out Such Mandate

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”;

Mindful of paragraph I.2.a of the said Bonn Conclusions of the Peace Implementation Conference, which recognised “that an impartial and independent judiciary” was “essential to the rule of law and reconciliation within Bosnia and Herzegovina” and that the judicial appointment process had to be based on merit;

Considering paragraph 12.1 of the Declaration made by the Peace Implementation Council in Madrid of 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;

Having in mind that the Steering Board of the Peace Implementation Council, in the Communiqué issued in Sarajevo on 31 July 2002 called upon the authorities to assist in the timely establishment of the High Judicial and Prosecutorial Council and in the restructuring of the court and prosecutorial systems;

Noting the statement of the Steering Board of the Peace Implementation Council of 5 March 2004, whereby it fully supported “the HJPC process as the best chance this country has of establishing a modern independent and multi-ethnic judiciary and meeting European standards in this area;”

Noting further that the Steering Board of the Peace Implementation Council, in the communiqué issued after the meeting in Sarajevo on 23 June 2006, “urged the BiH authorities to address in a disciplined and effective manner key rule of law reforms, including continued support for a strong and independent judiciary and the work of the High Judicial and Prosecutorial Council”;

Bearing in mind that the Steering Board of the Peace Implementation Council on 20 October 2006 noted with disappointment attempts by politicians to undermine the independence and efficiency of judges and prosecutors, but expressed confidence in the institutions of Bosnia and Herzegovina to address this problem and in particular supported the High Judicial and Prosecutorial Council in its efforts to ensure that judges and prosecutors are free from political interference in their work;

Noting that the Steering Board of the Peace Implementation Council on 31 October 2007 called for a continued consolidation of state-level institutions while re-emphasising its concern about suggestions that certain reforms could be reversed unilaterally by entity decisions retrieving competencies previously transferred to the state;

Acknowledging the provision of the Law on High Judicial and Prosecutorial Council of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, Nos. 25/04, 93/05 and 48/07), Article 91, paragraph (7), providing for a secondment of international experts to the Council;

Recalling the previous Decisions of the High Representative of 3 June 2004, 3 June 2005, 26 January 2006, 1 August 2006 and 15 June 2007 on Appointment of Members and Advisors to the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, and the Decision Extending the Mandate of Sven Marius Urke as **an International Member of the** High Judicial and Prosecutorial Council of Bosnia and Herzegovina of 25 June 2008;

Being seized by the unanimous decision of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina to request the extension of the mandate for the international member of the Council, Mr. Sven Marius Urke, taken on 14 October 2009 and the following letter by the President of the Council Mr. Milorad Novković dated 26 October 2009;

Emphasizing that a professional and independent judiciary is a key requirement for Bosnia and Herzegovina's Euro-Atlantic integration, and that the High Judicial and Prosecutorial Council plays a fundamental role in ensuring the maintenance of an independent, impartial and professional judiciary;

Noting that the High Judicial and Prosecutorial Council needs continued support in order to be further safeguarded from continuous challenges to its role and independence;

The High Representative hereby issues the following

DECISION

Further Extending the Mandate of an International Member of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina and Appointing Sven Marius Urke to Carry Out Such Mandate

Article 1

(Extension of the Mandate)

This Decision provides for the extension of the mandate of an international member of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina.

Article 2

(The Mandate)

An international member of the Council may be a member of the internal bodies of the High Judicial and Prosecutorial Council in accordance with the Law on High Judicial and Prosecutorial Council of Bosnia and Herzegovina and the Rules of Procedure of the High Judicial and Prosecutorial Council.

Article 3

(Period of Extension)

The mandate of an international member of the Council shall end on 31 December 2012.

Article 4

(Sven Marius Urke as an International Member)

(1) The mandate of an international member referred to in Articles 1, 2 and 3 of this Decision shall be carried out by Sven Marius Urke.

(2) In case Sven Marius Urke may not carry out the mandate of an international member of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, an international member shall be appointed by the Council, providing that the funds for carrying out such mandate are secured.

Article 5

(Entry into Force)

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

Sarajevo, 14 December 2009

Dr. Valentin Inzko

High Representative