

FBiH Must Have Legal Clarity



Following consultations with Ambassadors of the Peace Implementation Council, the High Representative, Valentin Inzko, yesterday issued a decision temporarily suspending two Decisions of the Central Election Commission (CEC) of Bosnia and Herzegovina issued on 24 March 2011. These decisions relate to the FBiH House of Peoples and to the election of the President and Vice-presidents of the FBiH.

This decision will remove legal ambiguity regarding the status of the elected authorities of the FBiH until the Constitutional Court of the FBiH responds to the requests for review forwarded by Borjana Kristo and Vjekoslav Bevanda. Noting that the Decisions of the CEC enter into questions relating to the interpretation of the Constitution of the Federation of Bosnia and Herzegovina, the High Representative and the PIC SBA assessed that the Constitutional Court should have the opportunity to pronounce itself on these issues.

The Constitutional Court of the Federation of Bosnia and Herzegovina is the authoritative domestic body for matters falling under its jurisdiction and the HR's Decision seeks to provide legal certainty for the vital functions of government in the interim until the domestic judicial authorities can finish their job.

This decision was necessitated by the legal uncertainty in the FBiH that has in large part resulted from the refusal of the Western-Herzegovina Canton, Canton 10 and the Posavina Canton to fulfil their legal obligations to elect delegates to the

House of Peoples four months after the deadlines determined in the FBiH Constitution and the BiH Election Law. The fact that several ongoing legal challenges on issues that include constitutional matters arising under the FBiH Constitution are pending in parallel before different domestic bodies and in different jurisdictions have contributed to the legal uncertainty. The FBiH could not be allowed to sink into legal crisis at a time when citizens need a government that can address the great economic, social, and other challenges facing the country. The HR's Decision ensures that institutions of the FBiH are able to function in the interests of all the FBiH's citizens.

The decision taken yesterday means that the authorities in the Federation are those published in the Official Gazette of the Federation of Bosnia and Herzegovina on 21 March 2011 unless and until the Constitutional Court of the Federation of Bosnia and Herzegovina pronounces itself otherwise. It is therefore incumbent on all officials of the former Federation Government, all institutions in BiH, the political parties, civil servants, and others to act accordingly and to respect the decisions and acts of these executive and legislative authorities, including the 2011 Federation budget adopted Saturday.

The Decision to suspend the CEC's decision in no way suggests a lack of confidence by the international community in the CEC. The OHR calls on everyone to await the conclusion of the FBiH Constitutional Court's deliberations calmly. The Court's decisions will have to be upheld.