

High Representative Finds BiH Constitutional Court Appointments Procedure

The High Representative, Paddy Ashdown, has today written to the speaker of the RSNA Dragan Kalinic, to inform him of his decision to annul the appointment of two Judges from the RS to the BiH Constitutional Court.

In his letter, the High Representative explains that by failing to consult the RS Constitutional Commission, the RSNA did not follow the correct procedures laid down by law for such appointments.

In a letter to the Speaker of the RSNA, Dragan Kalinic, the High Representative emphasises that he has issued this Decision “with immense reluctance”. He adds that the “Constitutional Court has played and will continue to play, a crucial role in the institutional development of BiH. If every subsequent judgement of the Constitutional Court were to be open to challenge because the proper legal procedures were not followed in its foundation, this could seriously undermine the integrity of the court.”

The High Representative’s Decision reiterates an OHR legal opinion which finds that the Entity Constitutional Commissions are legally required to review all regulations, appointments, laws and decisions debated by the RSNA, regardless of whom the proponent is. The High Representative’s Decision notes that there was no such review of these appointments.

The Decision requires a re-run of process for appointing these two positions according to the proper procedures.

The High Representative issued this Decision to protect the integrity of the BiH Constitutional Court, which, given the crucial importance of its work, can not be subject to any uncertainty regarding the propriety of appointments. The High Representative, as a result of this Decision, does not prejudge any claim of a breach of vital national interest.