

Federation Law on Judicial and Prosecutorial Service

Yesterday the High Representative, Wolfgang Petritsch, issued a Decision imposing the Law on Judicial and Prosecutorial Service in the Federation of Bosnia and Herzegovina.

The implementation of this Law will contribute to the depoliticisation of the judiciary and the establishment of an effective and politically independent court system in the Federation. This development is long overdue. Due to intolerable delays in the legislative process, the High Representative has seen himself forced to impose the Law.

The Law provides for the establishment of independent judicial selection commissions at the Federation and Cantonal levels, which will issue recommendations to the parliaments on the appointment and the discipline of judges and prosecutors. Judges and prosecutors will no longer be able to be appointed or dismissed without the affirmative recommendations of the independent commissions.

The judicial selection commissions will be composed of judges and prosecutors chosen from among their own ranks. When Cantonal commissions consider Cantonal and municipal appointments, they will do so sitting with the Federation Commission.

The Law also contains a provision under which all sitting judges and prosecutors shall be subject to review over a period of the next 18 months. This initial vetting is critical to ensuring minimum standards of the quality of the judiciary and must be completed in full. The High Representative will consider an extension of the 18-month period if necessary to complete this process.

The establishment of judicial selection commissions is

consistent with European standards. Separating politics and the judiciary is essential for BiH's integration into European structures. An independent impartial judiciary free from political interference, direct or indirect, must exist for the Federation to meet its aspirations of democratic government. Without it, there can be no Rule of Law, no sustainable economic development and no effective protection of citizens' rights.

The draft Law, drawn up by a domestic working group and reviewed by the OHR, the OSCE, the UN Judicial System Assessment Program (UN JSAP) and the Council of Europe, had been on the table since last September. The Federation House of Representatives passed it in January, but the Federation House of Peoples has failed to consider it ever since, reflecting a lack of political will to allow for the depoliticisation of the judiciary.

The International Community shall monitor the implementation of the Law carefully, and the High Representative shall review the situation on a regular basis.