

Decision on Extending the Mandate of Sven Marius Urke as an International Member of 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 “[F]acilitate, 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”, that the judicial appointment process had to be based on merit, that a judicial training facility had to be established, and that the monitoring of the judicial system was an essential element of the aforesaid process;

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;

Noting further 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;

Having also in mind 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;”

Further noting 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;

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 and 93/05) 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 and 1 August 2006 on Appointment of Members and Advisors to the High Judicial and Prosecutorial Council of Bosnia and Herzegovina;

Being seized by the President of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina in the letter dated 7 May 2007, expressing the unanimous agreement of the Council reached at the Council session held on 26 April 2007, to request the extension of the mandate of Mr. Urke for one year, substantiated with the view that the continued international membership is still necessary in order to assist in the development of an independent and efficient judicial system and that the continued presence of Mr. Urke is vital to future progress, especially as preparations are being made for the establishment of the Council comprised solely of national members;

Being informed that the funding for Mr. Urke has been secured from the Government of the Kingdom of Norway;

The High Representative hereby issues the following

DECISION

Extending the Mandate of Sven Marius Urke as an International Member of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina

Article 1

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

Article 2

The mandate of Sven Marius Urke as an international member of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina shall be extended for a year, ending on 30 June 2008.

Article 3

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

Sarajevo, 15 June 2007

Dr. Christian Schwarz-Schilling

High Representative