Decision Enacting the Law on Ministerial and Government Appointments of the Federation 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 "Facilitate, as the High Representative judges necessary, the resolution of any difficulties arising in connection with civilian implementation";

Recallingparagraph 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";

Recalling the need that the international community has

identified to increase transparency and accountability in the process of appointing individuals to managerial positions in state bodies, and in particular, public enterprises;

Bearing in mind, the priority given by the Peace Implementation Council at its meeting held in Brussels on 23-24 May 2000 to the privatisation of a substantial number of publicly owned or controlled enterprises following a transparent process which was in the interests of the citizens of BiH and would encourage the injection of new management;

Noting that a element in the restructuring of public owned or controlled enterprises is the introduction of good governance in such enterprises, and that there is a need to ensure a merit-based appointment and selection process to take up positions within the Board of Management of such enterprises. Noting also that in the interests of open government, all public appointments should be based on open selection procedures;

Noting further the need to foster a culture of good management practices which will bolster the confidence of investors in bringing or maintaining their capital in Bosnia and Herzegovina;

Considering that the Law on Civil Service in the Institutions of Bosnia and Herzegovina adopted in June 2002 provides for the selection, management, career progression, compensation and social benefits of public employees in such a way as to foster professionalism and political independence of civil servants;

Considering further that since certain appointments in public bodies do not fall within the scope of civil service laws, there exists a need for a Law regulating the same, and ensuring respect for the principles of legality, merit, independent scrutiny, openness and transparency, accountability and representative recruitment.

Having considered and borne in mind the totality of the matters aforesaid, the High Representative hereby issues the following:

DECISION

Enacting the Law on Ministerial and Government Appointments of the Federation of Bosnia and Herzegovina

The Law which follows, and which forms an integral part of this Decision, shall enter into force as provided for in Article 20 thereof but on an interim basis until such time as the Parliament of the Federation of Bosnia and Herzegovina adopts the same in due form, without amendment and with no conditions attached.

This Decision shall come into effect forthwith and shall be published without delay in the Official Gazette of the Federation of Bosnia and Herzegovina.

Law on Ministerial, Government and other Appointments of the Federation of Bosnia and Herzegovina

Sarajevo, 26 February 2003

Paddy Ashdown
High Representative