Decision Enacting the Criminal Procedure Code 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";

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";

Recalling further paragraph 12.1 of the Declaration of the Peace Implementation Council which met in Madrid on 15 and 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;

Considering the need to provide for efficient conduct of investigation and prosecution of crimes which lie within the competence of the State of Bosnia and Herzegovina under the Constitution of Bosnia and Herzegovina introducing the principles by which that purpose can be accomplished in the best possible manner;

Recalling that pursuant to the aforesaid, a working group comprised of the most distinguished legal experts from the field of criminal procedure law from both Entities of Bosnia and Herzegovina and from the Brčko District of Bosnia and Herzegovina, prepared a draft text of the Criminal Procedure Code of Bosnia and Herzegovina, which was submitted to the Council of Ministers of Bosnia and Herzegovina in September 2002;

Recalling further that the Council of Ministers of Bosnia and Herzegovina adopted the said Code at its 95th session held on December 19, 2002 and forwarded it to the BiH Parliamentary Assembly in order to be discussed in an expedited procedure, and whose House of Representatives at its 7th session held on January 13, 2003 did not adopt the proposal of the Council of Ministers to treat the Code in accordance with Article 104 of the Rules of Procedure of the House of Representatives but decided to treat it under regular procedure;

Regretting that notwithstanding the matters aforesaid, the said Code has not been adopted yet;

Stressing the need for the existence of criminal procedure at the state level of Bosnia and Herzegovina which shall be in conformity with modern internationally recognized standards in the field of criminal procedure and which shall comply with guarantees enshrined under the European Convention on Human

Rights which itself forms part of the Constitution of Bosnia and Herzegovina and enjoys priority over all other law in Bosnia and Herzegovina;

Bearing in mindthe commitment of the Entities and the Br~ko District of Bosnia and Herzegovina to harmonize their respective criminal procedure codes with the Criminal Procedure Code of Bosnia and Herzegovina with the aim of securing that justice for all throughout Bosnia and Herzegovina as a whole is based on the same principles and procedural sefeguards, and in particular noting the progress achieved so far in that process;

Mindful both of the urgency and of the need to adopt the Criminal Procedure Code of Bosnia and Herzegovina for all the reasons as aforesaid and in order to protect the interests of the citizens of Bosnia and Herzegovina;

Having considered and borne in mind all these matters, the High Representative hereby issues the following

DECISION

Enacting the Criminal Procedure Code of Bosnia and Herzegovina, which is hereby attached as an integral part of this Decision. The said Code shall enter into force as a law of Bosnia and Herzegovina, with effect from the date provided for in Article 451 thereof, on an interim basis until such time as the Parliamentary Assembly of Bosnia and Herzegovina adopts this Code in due form, without amendments and with no conditions attached.

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

CRIMINAL PROCEDURE CODE OF BOSNIA AND HERZEGOVINA

Sarajevo, 24 January, 2003.

Paddy Ashdown
High Representative