

Decision Amending the Constitution of Republika Srpska

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;

Bearing in mind that accountability to the public of persons holding elective office is one of the cornerstones of a functioning democracy but also noting that a proper functioning democracy also requires that such persons should enjoy such immunities under civil and criminal law as are appropriate for the proper carrying out of their functions and duties as elected representatives so as to ensure that the public interest can be served by elected representatives independently and without fear of unjust or frivolous interference;

Conscious of the need likewise to protect the integrity of the legislative and executive institutions of Republika Srpska.

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

DECISION

Amending the Constitution of Republika Srpska

The Amendments set out hereunder form an integral part of this Decision and shall enter into force with immediate effect.

This Decision, accompanied by the text of the Amendments, shall be published without delay in the Official Gazette of the Republika Srpska

Sarajevo, 6 October 2002

Paddy Ashdown

High Representatives

The Constitution of Republika Srpska shall be amended as follows:

Amendment XCIX

Article 73., as supplemented by Amendment LXXX, shall be amended by deleting the existing text and replacing the same with the following:

“Deputies of the National Assembly and members of the Council of Peoples shall not be held criminally or civilly liable for any acts carried out within the scope of their duties in the National Assembly or Council of Peoples respectively.”

Amendment C

Article 86., as amended by Amendment XL, shall be deleted.

Amendment CI

The paragraph of Article 89. referring to the immunity of Senate members shall be deleted.

Amendment CII

Article 95. shall be deleted.

Amendment CIII

A final paragraph shall be added to Article 115., which shall read as follows:

“The Constitutional Court shall decide questions concerning immunity, which arise under legislation regulating the same in the Republika Srpska.”