

Decision Amending the Constitution 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”;

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 to protect the integrity of the legislative and executive institutions of the Federation of Bosnia and Herzegovina.

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

DECISION

Amending the Constitution of the Federation of Bosnia and Herzegovina.

This Decision and the amendments attached hereto and which form an integral part thereof shall come into effect forthwith and shall be published without delay in the Official Gazette of the Federation of Bosnia and Herzegovina.

Sarajevo, 6 October 2002

Paddy Ashdown

High Representative

The Constitution of the Federation of Bosnia and Herzegovina shall be amended as follows:

Amendment LXIV

Article IV.A.3.13. of the Federation Constitution shall be amended by deletion of the existing text and replacement with text as follows:

“Members and Delegates of the Federation Legislature shall not be held criminally or civilly liable for any acts carried out within the scope of their duties in the Legislature of the Federation.”

Amendment LXV

Article IV. B. 4. 10. shall be deleted.

Amendment LXVI

A final paragraph shall be added to Article IV.C.3.10., which shall read as follows:

“The Constitutional Court shall decide questions, which arise under legislation regulating immunity in the Federation.”

Amendment LXVII

In Article V. 2. 7. paragraph 4. shall be amended by deletion of the existing text and replacement with text as follows:

“Legislators in the Cantonal Legislatures shall not be held criminally or civilly liable for any acts carried out within the scope of their duties in the Cantonal Legislatures.”