Decision allocating jurisdiction for the investigation, prosecution and trials of incidents of violence and intimidation in the Federation during the past month to the Cantonal Prosecutor and Cantonal Court of Sarajevo

In the exercise of the powers vested in me 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 Representativeąs 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”;

Considering Article II 2. and Article II 3. (e) of the Constitution of Bosnia and Herzegovina which provide that all persons within the territory of Bosnia and Herzegovina shall enjoy the human rights and fundamental freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols including “the right to a fair hearing in Š criminal matters, and other rights relating to criminal proceedings”;

Bearing in mind that in order to hold a fair hearing, the conduct of a full, timely, efficient and comprehensive pre-trial investigation is indispensable;

Recognizing that in criminal proceedings every endeavor must be made to ensure that all facts are, so far as can be achieved, safely and accurately established;

Considering the importance of guaranteeing the implementation of the basic principles of criminal procedure as required by Chapter I, Article 1 through 19 of the Criminal Procedure Code of the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of Bosnia and Herzegovina, No. 43/98);

With the object of implementing the principle of legality of criminal prosecution as required by Article 16 of the Criminal Procedure Code of the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of Bosnia and Herzegovina, No. 43/98);

Noting the vital importance to the Federation of Bosnia and Herzegovina and to Bosnia and Herzegovina of ensuring that the rule of law is strengthened and followed.

I hereby issue the following

DECISION

(1) The competent court for conducting investigations into, and first instance trials of, perpetrators of all criminals acts arising from the following events:

- Acts of incitement, intimidation and violence (including conduct amounting to offences against official duty or other responsible duty) against persons, property and the public peace perpetrated between approximately 08.00 and 24.00 on Friday the 6th April 2001, at or near the premises owned or occupied by the Hercegovacka Banka in Mostar (Herzegovina Neretva Canton), Grude (West Herzegovina Canton), Medjugorje (West Herzegovina Canton), Siroki Brijeg (West Herzegovina Canton), Posusje (West Herzegovina Canton) and Tomislavgrad (Herzegovina-Bosnia Canton) or otherwise related to the appointment of the Provisional Administrator of the Hercegovacka Banka occurring at these and other location;
- Act of the bombing of a vehicle, that took place between approximately 03.00 and 04.00 on Wednesday 10th April 2001, at Trn in Siroki Brijeg (West Herzegovina Canton);
- Acts of incitement, intimidation and violence (including conduct amounting to offences against official duty or other responsible duty) against persons, property and public peace wherever carried out within the Federation of Bosnia and Herzegovina which had or have as their object support for the so-called Declaration on Croat Selfgovernance.
- Acts constituting offences against the constitutional establishment of the Federation of Bosnia and Herzegovina which have as their object support for the so-called Declaration on Croat Selfgovernance.

shall be the Cantonal Court of Sarajevo, with the exception

only of criminal acts foreseen in Article 3 (3) of the Law on Amendments to the Law on the Supreme Court of the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of Bosnia and Herzegovina, No. 33/99) in respect of which the Supreme Court of the Federation of Bosnia and Herzegovina is competent pursuant to that Law.

(2) The Cantonal Prosecutor of Canton Sarajevo and the Office thereof shall be the competent prosecutor/prosecuting authority to conduct the prosecution of perpetrators of all criminal acts automatically prosecuted and arising from the aforementioned events, with the exception of criminal acts foreseen in Article 3 of the Law on Amendments to the Law on the Federal Prosecutorąs Office (Official Gazette of the Federation of Bosnia and Herzegovina, No. 33/99) in respect of which the Federal Prosecutor is competent pursuant to that Law.

(3) A municipal or cantonal prosecutor and the Office thereof or a municipal or cantonal court that would otherwise be competent under the provisions of the Criminal Procedure Code of the Federation of Bosnia and Herzegovina or other relevant Federal or Cantonal Law to prosecute, or to conduct investigation or first instance trial against perpetrators of criminal acts as referred to in numbered Paragraph 1 of this Decision, is required to comply with this Decision and, in the event that the prosecution, or investigation or trial has already been initiated prior to the date hereof, to transfer the case forthwith to the Prosecutor of the Canton of Sarajevo or to the Office thereof or to the Cantonal Court of Sarajevo as applicable under the relevant procedural rules.

(4) All law enforcement agencies throughout the Federation of Bosnia and Herzegovina are obliged to assist the Prosecutor of Canton Sarajevo and the Office thereof in the discovery and prosecution of perpetrators of criminal acts referred to in numbered Paragraph 1 of this Decision.

(5) This Decision shall enter into force immediately and shall be published without delay in the Official Gazette of the Federation of Bosnia and Herzegovina.

Sarajevo, 27 April 2001	Wolfgang Petritsch
	High Representative

Office of the High Representative