

Decision annulling five RS laws concerning state-level competencies, which were passed in violation of the BiH Constitution

In the exercise of the powers vested in me by Article 5 of Annex 10 to the General Agreement for Peace in Bosnia and Herzegovina, according to which the High Representative is the final authority in theater regarding interpretation of his mandate, and considering in particular Art. II.1.(d) of the same Agreement, entrusting on the High Representative the power to facilitate, as he judges necessary, the resolution of any difficulties arising in connection with civilian implementation; recalling the interpretation of such a power given in paragraph XI.2 of the Conclusions of the Peace Implementation Conference held in Bonn the 10 December 1997, particularly sub-paragraph (c) thereof, in terms of which the High Representative is entitled to make binding decisions, as he judges necessary, including such measures as needed " to ensure implementation of the Peace Agreement throughout Bosnia and Herzegovina and its Entities, as well as the smooth running of the common institutions";

Considering Article IV.4. of the BiH Constitution, particularly sub-paragraph (a) thereof, in terms of which the Parliamentary Assembly shall have responsibility for "enacting legislation...to carry out the responsibilities of the Assembly under this Constitution" and Article III.3. of the BiH Constitution, particularly sub-paragraph (b) thereof, in terms of which "The Entities shall comply fully with this Constitution...and with the decisions of the Institutions of

Bosnia and Herzegovina” and considering the necessity for the establishment of a stable legal system in Bosnia and Herzegovina in which individuals and institutions must respect BiH Laws which are directly applicable on the whole State territory, not leaving any room for the adoption of special Entity legislation with respect to their application on the Entity territory.

Noting that the current practice of the RSNA to adopt special Entity Laws declaring that the valid State Law are applicable on the RS territory is unacceptable and contrary to the BiH legal and Constitutional system;

Noting also that the RS Government passed the Decision on non-acceptance of the Council of Ministers’ Decision which had been published in the RS Official Gazette 15/99 of 2 July 1999;

All this considered, born in mind and noted, I hereby issue the following

DECISION:

1. The following RS Laws published in the RS Official Gazette 17/99 of 15 July 1999 are hereby invalidated:

- Law on the application of the Law on Foreign Policy of BiH;
- Law on application of the Law on Custom Policy of BiH;
- Law on application of the Custom Tariffs of BiH;
- Law on application of the Custom Tariffs of BiH;
- Law on application of the Law on Direct Foreign Investment in BiH.

The BiH Law on Foreign Policy (BiH Official Gazette 7/98), the BiH Law of Custom Policy (BiH O.G. 21/98), the BiH Law on Custom Tariffs (BiH O.G. 1/98) and the BiH Law on Direct Foreign Investment (BIH O.G.17/98) have been duly adopted by the BiH Parliamentary Assembly

and have been published in the BiH Official Gazette. The Laws have now entered into force and are applicable on the whole territory of Bosnia and Herzegovina.

The Entities are entitled only to publish State Laws in their respective Official Gazette, but are not competent, under the Constitution of Bosnia and Herzegovina, to adopt special legislation on the application of such Laws on Entity territory.

2. The Decision of the RS Government published in the RS Official Gazette 15/99 of 2 July 1999 on the non-acceptance of the Decision of the Council of Ministers of BiH published in the BiH Official Gazette 5/99 from 7 of May 1999 is hereby invalidated.

For the same reasons outlined above, the Decisions of the Council of Ministers of Bosnia and Herzegovina are directly applicable on the entire territory of Bosnia and Herzegovina. The RS Government, as well as Government of the Federation BiH, therefore, is not competent to take any decision by which it can reject or alter decisions of the BiH Council of Ministers.

Sarajevo, 1.10. 1999

Wolfgang Petritsch
High Representative

Office of the High Representative