

Decision Enacting amendments to the Law on Centre for Judicial and Prosecutorial Training of the Republika Srpska

In the exercise of the powers vested in the High Representative under 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 the 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 I.2.a. of the Conclusions of the Peace Implementation Conference held in Bonn on 9 to 10 December 1997 that recognised “that an impartial and independent judiciary is essential to the rule of law and reconciliation within Bosnia and Herzegovina” and to that end “a facility for judicial training must be established”;

Mindful of the European Charter on the statute for judges adopted at a multilateral meeting in Strasbourg on 8 to 10 July 1998 organised by the Council of Europe, which indicated that the competence, independence and impartiality of the judiciary could be guaranteed in part by the provision of appropriate training for judges at the expense of the State in order to prepare candidates for judicial office and that the independent body in charge of selection, recruitment, appointment and the career progress of judges should ensure the appropriateness of training programmes and of the organisation that implements them;

Mindful of the Communiqué of the Steering Board of the Peace Implementation Council of 7 May 2002 in which the Steering Board reiterated the need for and its full endorsement of a thorough reform of the judicial system and welcomed the intention of the High Representative to ensure completion of the first phase of reform by “ensuring the establishment of training institutes in both entities coordinated by the High Judicial Council.”

Recognising the significance of a Centre for Judicial and Prosecutorial Training to the improvement of the administration of justice and the enhancement of the skills and competencies of judges and prosecutors necessary for the strengthening of the rule of law and for the protection of rights and freedoms of citizens as guaranteed by Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms;

Recalling that the High Representative issued the Decision on

the Law on Centre for Judicial and Prosecutorial Training of the Republika Srpska on May 23, 2002 (Official Gazette of the Republika Srpska No. 34/02) which was later adopted by the the National Assembly of the Republika Srpska and published in the Official Gazette of the Republika Srpska No. 49/02;

Mindful of the need to ensure optimal conditions for the setting up of the said Centre;

Recognising the value of a strong and efficient managerial structure;

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

DECISION

Enacting amendments to the Law on Centre for Judicial and Prosecutorial Training of the Republika Srpska, which is hereby attached as an integral part of this Decision.

The said amendments shall enter into force as a law of the Republika Srpska, with effect from the date provided for in Article 8 thereof, on an interim basis until such time as the Legislature of the Republika Srpska adopts this law in due form, without amendments and with no conditions attached.

This Decision shall enter into force forthwith and shall be published without delay in the Official Gazette of the Republika Srpska.

Sarajevo, 1 November 2002

*Paddy Ashdown
High Representative*

PROSECUTORIAL TRAINING OF THE REPUBLIKA SRPSKA

Article 1

All references in the Law on the Centre for Judicial and Prosecutorial Training of the Republika Srpska (Official Gazette of the Republika Srpska No. 34/02; 49/02) to the words "High Judicial Council" shall be replaced by the word "Council" in the appropriate case.

Article 2

In Article 5, paragraph 3 shall be replaced by the following new paragraph:

"The Council shall approve the election and appointment, and on the grounds of Articles 5a and 5b hereunder reject the election and appointment and decide on the suspension and termination of the mandate, of the members of the Steering Board."

Article 3

After Article 5, the following new Articles 5a, 5b, 5c and 5d shall be added to read as follows:

"Article 5a

Termination of Mandate

The mandate of a member of the Steering Board shall terminate:

1. upon cessation of function by virtue of which the member was elected or appointed to the Steering Board;
2. upon the expiry of the period for which the member has been elected or appointed;
3. by resignation;
4. if the member performs his duties improperly, inefficiently, or in a biased manner or fails to fulfil obligations arising out of his office;

5. for a commission of an act that would make the member unworthy to perform duties in the Steering Board;
6. upon a final conviction of any criminal offense punishable by a prison sentence, which conviction shall result in automatic termination.

A Steering Board member whose mandate has expired under subparagraph 2 of paragraph 1 of this Article shall continue exercising the rights and duties of a Steering Board member until a new member is elected or appointed.

The mandate of a Steering Board member under subparagraph 3 of paragraph 1 of this Article shall expire on the day when the Chairperson of the Steering Board receives his written statement of resignation, and under subparagraphs 4 and 5 of paragraph 1 of this Article when the Council relieves him of duty.

Article 5b

Suspension of a Member

The Council shall suspend a Steering Board member against whom criminal charges are brought by a prosecutor or if the member is confined to pre-trial detention.

The Council shall suspend a member who is suspended from the function by virtue of which he qualifies for election or appointment to the Steering Board.

The Council may suspend a member against whom a criminal investigation or professional disciplinary proceedings have been initiated or for matters that could lead to termination of the member's mandate under Article 5a of this Law.

Article 5c

New Members

The Chairperson of the Steering Board shall notify the body

responsible for the election or appointment of a member to the Steering Board under Article 5 of this Law at least three (3) months prior to the expiry of a member's mandate and request the body to elect, or in the case of the Minister of Justice, to appoint, a new member to the Steering Board.

If a member's mandate terminates prior to the expiry of his term of office, a new member shall be elected or appointed as a replacement in accordance with the provisions laid down in Article 5 paragraph 3 of this Law and shall serve the remaining term of office. The person shall be eligible to serve one additional full term after completing the remaining term of office.

In the event of the termination of the mandate of a member, the Chairperson of the Steering Board shall notify the body responsible for the election or appointment of the new member. The Chairperson shall notify the relevant body no later than 30 days after the termination of mandate.

Article 5d

Chairperson

The Chairperson of the Steering Board shall be elected by a majority vote of the members present and voting. The mandate of the Chairperson shall be two and a half (2,5) years or until his mandate expires or otherwise terminates under Article 5a of this Law, whichever is sooner."

Article 4

In Article 8, item 5 after the words "the Director of the Centre", a comma and the words "in consultation with the Council" shall be inserted.

Article 5

In Article 11, paragraph 3, item 4 shall be deleted.

The previous item 5 shall become item 4.

Article 6

Article 20 shall be deleted.

Article 7

In Article 21 the words “within 30 days of the announcement referred to in paragraph 4 of Article 20 of this Law” shall be deleted.

Article 8

This law shall enter into force on the eighth day after its publication in the Official Gazette of the Republika Srpska.