

Decision Enacting the Law Repealing the Law on Pardon 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 all the efforts made to implement the reinvigorated strategy for judicial reform to strengthen the Rule of Law in Bosnia and Herzegovina in 2002/03 which was endorsed by the Steering Board of the Peace Implementation Council on 28 February 2002 which efforts are, among others, reflected in adoption of new criminal legislation and in strengthening of judicial and prosecutorial institutions throughout Bosnia and Herzegovina;

Noting that the Law on Pardon of Bosnia and Herzegovina, providing for the possibility to release a person from the prosecution and a convict from the execution of a sentence, entered into force on 18 September 2004 ;

Noting further that the said Law on Pardon does not provide for an apparent procedure in which a pardon is granted and that such situation may result in a number of discretionary granted pardons;

Mindful therefore of the need to ensure the transparency and the publicity of the process of pardoning which process will incorporate standards to prevent that decisions of the executive authority affect decisions of judicial institutions without due reason;

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

DECISION

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(Official Gazette of Bosnia and Herzegovina , No. 42/04)

Which is hereby attached as an integral part of this Decision.

The said Law shall be published on the official website of the Office of the High Representative and shall enter into force as a law of the Bosnia and Herzegovina, with immediate effect, on an interim basis, until such time as the Parliamentary Assembly of Bosnia and Herzegovina adopts this Law in due form, without amendment and with no conditions attached.

This Decision shall enter into force forthwith and shall be published without delay in the "Official Gazette of Bosnia and Herzegovina".

Sarajevo, 26 November 2004

Paddy Ashdown
High Representative

THE LAW REPEALING THE LAW ON PARDON OF BiH

Article 1

The Law on Pardon (Official Gazette of Bosnia and Herzegovina , No. 42/04) shall cease to exist on the day of entry into force of this Law.

Article 2

This Law shall enter into force forthwith and shall be published without delay.