The High Representative's Decision on Law on the Courts of the Herzegovina-Neretva Canton

In accordance with my authority under Annex 10 of the General Framework Agreement for Peace in Bosnia and Herzegovina, and Article XI of the Conclusions of the Peace Implementation Conference held in Bonn on 10 December 1997, I do hereby

DECIDE

The *Law on the Courts of the Herzegovina-Neretva Canton* and the *Law on the Court for the Central Zone of the City of Mostar*, as hereby attached as an integral part of this Decision, shall enter into force by 3 August 1998 on an interim basis.

These laws shall remain in force until the competent organs of the Herzegovina-Neretva Canton have adopted them in due form, without any amendments or conditions attached.

Sarajevo, 31 July 1998

Carlos Westendorp

High Representative

LAW ON COURTS of the Herzegovina-Neretva Canton

I – GENERAL PROVISIONS

Article 1

The Courts of the Herzegovina-Neretva Canton (hereinafter referred to as: the Courts) are the bodies of the governmental authority, which are established by law, and

perform the judicial function within the limits of their jurisdiction as set forth in the Constitution of the Federation of Bosnia and Herzegovina, the Constitution of the Canton, and the Federal and Cantonal laws.

Article 2

The Courts are established and dismissed based on the law of the Canton.

Article 3

In performing their judicial function, the Courts are independent and rule (upon) based upon the Constitutions and the laws.

Article 4

The Courts shall rule in disputes related to basic personal relations, the rights and obligations of citizens and the rights and obligations of municipalities, cantons and the Federation. The Courts shall pronounce penalties and other measures against perpetrators of crimes and other punishable acts as set forth by the law; in administrative disputes not in the jurisdiction of another Court; shall rule in disputes not assigned to another government organ; in status-related economic disputes, and shall rule upon in other matters, when so provided in the law.

Article 5

The Courts shall monitor and study social relations and phenomena of interest to the exercise of their functions and shall provide proposals to the competent governmental organs for the prevention of socially dangerous and detrimental phenomena for the strengthening of legality.

The Courts shall monitor and study the problems from the juridical practice which are of interest to the fair and uniform implementation of the law.

In order to exercise the functions from the previous paragraphs, the Cantonal Court may request the municipal courts to supply it with necessary information.

Article 6

The Courts have the right and the duty, within the scope of the exercise of their functions in the competent Cantonal Ministry, to inform the bodies of the legislative, the executive and the judiciary authorities, at their request or on the Court's own initiative, on the implementation of the law, and on the need to issue or amend the law.

Article 7

When the Court of the Canton, during a procedure conducted before the Court, deems that a particular law is not in accordance with the Constitution of the Federation of Bosnia and Herzegovina, it shall suspend the procedure and propose to the Constitutional Court of the Federation of Bosnia and Herzegovina to institute proceedings to evaluate the constitutionality of that law.

Article 8

Under the terms envisaged in the law, the Courts shall offer legal assistance to citizens in the exercise and protection of their rights in matters within judicial jurisdiction.

Article 9

The work of the Courts is public.

The publicity of work shall be provided through public deliberations before the Courts; through publicizing the membership of the Court panels; through providing information in the course of the judicial proceedings to parties concerned under the terms envisaged in the law; through public pronouncements of court decisions; and by

making the public aware of the work of the Courts and the pronouncement of important court decisions through public media.

In accordance with the Federal and Cantonal laws, the Courts may exclude the public and the media from court proceedings for the purpose of protecting secrets affecting the national security, the protection of morals, the interests of minors or for the purposes of the protection of other special government interests.

Article 10

The Courts shall proceed in panels.

The membership of panels shall be determined by law.

The law may provide that particular matters shall be ruled on by an individual judge.

Article 11

Court panels are composed of judges and citizens as lay judges.

The law may provide that only judges may participate in certain Courts and in certain matters.

Article 12

The judicial function is a public function and judges as its holders are subject to all of the immunities

and liabilities of public officials as provided in the Constitutions and the laws.

Article 13

The Courts shall ensure the equal positions of all parties in judicial proceedings.

Article 14

The President of the Court and the other judges shall be appointed and dismissed under the terms and under the procedure ensuring expertise, independence and dignity in exercising judicial duty.

A judge may not perform a function or a job which has no connection to the function of a judge, unless otherwise provided by this law.

Article 15

A judge or lay judge may not be held responsible for an opinion offered in rendering a court decision.

Without the authorization of the Parliament of the Canton which appointed him/her, a judge or a lay judge of the Cantonal Court may not be taken into custody in a proceeding because of a crime perpetrated in the exercise of the judicial function.

Without the authorization from the President of the Cantonal Court which appointed him/her, a judge or a lay judge of the Municipal Court may not be taken into custody in a proceeding because of a crime perpetrated in the exercise of the judicial function.

Article 16

The panel of the Cantonal Court may indicate to the municipal court any faults in the ruling of the Municipal Court observed in ruling upon any appeal from the Municipal Court.

If such faults appear frequently in the decisions of a particular Municipal Court or if they are of major relevance, the Cantonal Court shall indicate to that Municipal Court what these faults are and shall institute the initiative from articles 5 and 6 of the Law.

The legal positions declared in the remark of the Cantonal Court are not mandatory for the Municipal Courts.

Article 17

The Cantonal Court may require the Municipal Courts in its territory to supply the data necessary to monitor and study particular matters appearing in the exercise of the judicial function.

In order to exercise the function from the previous paragraph, judges of the Cantonal Court may observe and have direct insight into the work of Municipal Courts in its territory.

Article 18

Courts shall be obliged to offer legal assistance to each other.

Government organs, organizations, enterprises and other organizations and communities shall be obliged to offer assistance to the Courts in performing their official duties.

Article 19

Only the competent court may render a decision on an appeal or other legal remedy against a court decision.

Article 20

The decisions of courts rendered in other Cantons of the Federation of Bosnia and Herzegovina are valid and enforceable on the territories of all other cantons.

Article 21

Decisions, documents and other individual enactment issued by government organs and competent organizations in all Cantons of the Federation of Bosnia and Herzegovina shall have the same validity before the courts of all Cantons.

Article 22

The official languages of the court shall be the Bosnian and the Croatian languages, and the official alphabet shall be Latin.

In the exercise of the judicial function, the courts shall ensure equal use of the official languages of the Federation, including other languages which may be used as an instrument of communication.

When a court rules in the first instance, the certified transcription of the decision shall be submitted to the authorized organ or party in the official language in which the decision has been rendered, whereby the party may be furnished with the decision in the other language from the submission by which the party instituted the procedure, or provided the response related to the institution of the procedure, or another language used during the procedure.

The certified transcription of the decision rendered by the court in the ordinary or extraordinary legal remedy procedure shall be submitted to the court, or another organ, whose decision was reviewed in the official language in which the decision reviewed was rendered and the transcription of the decision intended for the party, that is, another participant in the procedure in that official language, and may also be furnished in another language which was used in the procedure.

Complaints, appeals and other submissions may also be filed with courts in another language which is not in official use at the court.

The provisions of paragraphs 3 and 4 of this article shall be suitably applied in delivering summons and other court writs to the parties and other participants in the procedure.

Article 23

The internal organization in the Cantonal and Municipal courts shall be determined in the Book of Rules on the internal organization of the particular court.

The Book of Rules from paragraph 1 of this article shall be brought by the presiding judge of the Cantonal or Municipal courts, upon the prior approval of the Ministry of Justice and the Cantonal Administration.

Article 24

The labor regulations for the employees of the administration organs are fairly and equally applied to the employees of the Cantonal and Municipal courts, unless otherwise provided in this Law.

The provisions on the responsibility caused by violation of official duty, as determined in the Book of Rules on the internal organization of the court, are not applicable to judges.

Article 25

The judge shall wear a special outfit in the performance of his/her duty.

The Ministry of Justice and the Cantonal Administrations shall issue separate books of rules to prescribe the appearance and the terms under which the outfit is to be worn.

Article 26

The judges of the Municipal and Cantonal courts shall be issued official identity cards.

The Ministry of Justice and Administration of the Canton shall regulate forms and procedures of the issuing of

the official identity cards by a separate Book of Rules.

The regulations of this law which refer to judges apply also to the President of the Court unless regulated otherwise by this law.

II – ORGANIZATION OF COURTS

Article 27

The courts of the Canton include the Municipal courts and the Cantonal Court.

Taking into account the specificity of the City of Mostar, a Court for the Central Zone of the City of Mostar shall be established by a separate law.

The organization and the proceedings before all the petty offense courts shall be prescribed in a separate law.

Article 28

The Municipal court shall be established for the territory of one Municipality.

For the territory of two or more Municipalities, one Municipal court can be established.

Article 29

The Cantonal Court shall be established with jurisdiction over the entire territory of the Canton.

Article 30

The courts shall have seals in accordance with the Law on Seals of the Herzegovina-Neretva Canton.

The building of the court must have the name of the court and the coat-of-arms of the Herzegovina-Neretva Canton visibly placed on it.

Article 31

Municipal courts may, on an exceptional basis, within the territory for which they have territorial jurisdiction, exercise judicial power outside of the seat of the court.

Municipal courts may offer legal assistance to citizens, certify signatures, conduct main trials and deliberations , as well as court appearances in non-contentious matters on the days of court outside of the seat of the court.

The decision on the holding of the days of court shall contain the data on the place, area and time of the holding of the court days, which shall be published in the Official Gazette of the Canton and in other appropriate ways.

III – JURISDICTION OF THE COURTS

Article 32

The Municipal Courts shall be competent in the following criminal matters :

1. to rule in the first instance on crimes for which the law provides a fine or a prison penalty of up to fifteen years as a principal penalty;
2. to rule in the first instance on crimes against minors;
3. to conduct investigation and other actions on crimes from their jurisdiction, to rule upon the appeals against the decisions of the examining judge and upon his/her motions.
4. to execute criminal sanctions and security measures;
5. to decide on the petitions of convicted persons for erasure of conviction based on the judicial decision and on the petitions of convicted persons for termination of security measures, that is, for termination of the legal consequences of the conviction, related to the judicial

decisions rendered by the Municipal Court in the first instance,

6. to perform other duties determined in the law.

The decision from point d) of the previous paragraph shall be brought by the Municipal Court on whose territory the place of residence of the petitioner is located.

Municipal courts are competent in civil matters as follows:

to rule in civil disputes, unless jurisdiction of another court is legally prescribed for specific types

of disputes, and in family legal or labor disputes;

In other matters Municipal Courts shall :

1. rule in economic disputes
2. rule upon disputes which refer to ships and the navigation on the sea and inland waterways, and also in disputes which are to be regulated by the maritime law ;
3. rule for economic offenses
4. resolve non-contentious cases and determine and provide for execution and security unless the resolution of such matters is assigned to another court
5. resolve cases of inheritance
6. resolve cadaster matters and keep the cadaster books
7. perform duties of legal assistance
8. offer international legal assistance unless the law provides that the Cantonal Court is in charge of such matters
9. offer legal assistance to the courts of the Federation and of the Canton.
10. perform other duties assigned by the law.

Article 33

The panel of the Municipal Court, consisting of one

judge and two lay judges, shall rule upon the disputes related to existence, non-existence, invalidation and dissolution of marriage, on the legal and life support, on the custody and upbringing of children and on the cancellation of usage of apartment or office space.

In separate court proceedings from the areas in which social relations shall be arranged by the Federation of Bosnia and Herzegovina, the proceedings shall be conducted and the decisions shall be rendered by an individual judge, unless otherwise prescribed in a separate law.

Article 34

The petition for erasure of conviction based on the judicial decision and the appeal for termination of security measures, that is, of legal consequences of the conviction shall be filed in the Municipal court which ruled in the first instance.

Article 35

The Cantonal Court shall be competent in the following matters :

1. to rule upon appeals against the decisions of the municipal courts issued in the first instance;
2. to rule upon the conflict of competencies between the municipal courts of the canton;
3. to decide upon the transfer of the territorial competence from one municipal court to the other municipal court
4. to decide upon one court to be in charge in cases prescribed by the law, which are included within the competence of two or more courts;
5. to rule on crimes for which the law provides a prison penalty of over 15 years or heavier penalty;
6. to carry out investigation and take other actions for

crimes from their jurisdiction, to rule upon the appeals against the decisions of the examining judge and upon his/her motions;

7. to rule upon the appeals against the final administrative acts;
8. to rule upon other regular or extraordinary legal remedies in accordance with the law;
9. to rule upon disputes related to copyright, and in disputes related to the protection or the use of inventions, samples, models or stamps, on the right of the use and protection of the company, and also disputes concerning disloyal competition and monopolistic agreements;
10. to rule upon disputes which appear during or following the execution of the decisions which were issued by the Cantonal court;
11. to rule upon disputes which appear during and with the intention of the execution of the procedures of the compulsory adjustment, bankruptcy and regular liquidation of a company;
12. to carry out the procedure of the compulsory adjustment, bankruptcy and regular liquidation;
13. to keep the registers in accordance with special regulations;
14. to conduct the procedure concerning requests for rendering the international penal-legal assistance for the extradition of the accused or convicted foreigners;
15. to rule upon the recognition and execution of the decisions of courts abroad;
16. to rule upon the requests of the sentenced persons for the erasure of conviction on the basis of court decisions and upon requests of the sentenced persons for the termination of legal consequences of the verdict, and in accordance with the judicial decisions brought by the Cantonal Court in the first instance ;
17. to perform other duties prescribed by the law.

Article 36

Each party in an appeal procedure, in which the Cantonal Court has pronounced the verdict with no right to appeal allowed, may, for any reason except for the reason of expiration of the period for which the responsible party has instituted the procedure, file an appeal against the verdict to the Human Rights Court based on any matter from its jurisdiction.

Upon the petition of any of the parties in the appeal procedure before it, or on its own initiative in relation to such appeal, the Cantonal Court may address the Human Rights Court with the matter arising from the appeal, if such matter is in relation to any matter from the jurisdiction of that Court.

Article 37

As an urgent procedure, the Cantonal Court shall decide if the procedure was followed for the determination of a matter as a vital interest or if it is a matter of vital interest to any of the nations.

The Cantonal Court must render this decision within seven (7) days.

Upon the decision of the Cantonal Court, the Governor, the Deputy Governor, the Prime Minister, the Deputy Prime Minister or one third of the representatives in the Parliament may institute proceedings before the Constitutional Court of the Federation.

IV – SEAT AND TERRITORY OF THE COURTS

Article 38

Municipal Courts are the following :

- Municipal court Mostar-Stari Grad for the territory of

the municipality Stari Grad
- Municipal court Mostar-North for the territory of the municipality North
- Municipal court Mostar-Southeast for the territory of the municipality Southeast
- Municipal court Mostar-West for the territory of the municipality West
- Municipal court Mostar-Southwest for the territory of the municipality Southwest
- Municipal court Mostar-South for the territory of the municipality South
- Municipal court Konjic for the territory of the municipality Konjic
- Municipal court Jablanica for the territory of the municipality Jablanica
- Municipal court Prozor-Rama for the territory of the municipality Prozor-Rama
- Municipal court Citluk for the territory of the municipality Citluk
- Municipal court Capljina for the territory of the municipality Capljina
- Municipal court Stolac for the territory of the municipality Stolac
- Municipal court Neum for the territory of the municipality Neum and Ravno

Article 39

The seat of the Cantonal Court shall be in Mostar.

The Cantonal Court shall comprise the territories of the municipal courts which are operating within the territory of the Canton, and shall be established by this law.

V – INTERNAL ORGANIZATION

Article 40

The President of the court shall determine the

internal organization of the court, except for the number of judges.

The Minister of Justice of the Canton shall approve the court enactment from the previous paragraph.

Article 41

Actions ensuring the conditions for the efficient work and operations of the court shall be performed at the court administration.

The duties of the judicial administration shall be performed by the President of the court within the powers provided in regulations

Article 42

The duties of judicial administration shall comprise of ensuring conditions for the efficient work and operations of the court, specifically :

- organization of internal operations at the court,
- making sure that the duties of the court are performed regularly and on time,
- expert duties related to the exercise of rights and obligations of the employees,
- organization of expert education for judges expert advisors, court interns and other employees of the court,
- keeping statistics and report service of the court,
- duties of summoning and deployment of lay judges,
- duties related to full-time court interpreters and expert witnesses,
- duties related to execution of criminal sanctions,
- material-financial transactions of the court,
- procedure with persons in custody,
- certifications of documents intended for use abroad,
- duties related to complaints of parties against the work

of the court,

- other duties prescribed in the law and the book of rules on internal work.

Municipal Court and the Cantonal Court must submit semi-annual and annual reports on their work to

the Ministry of Justice and to the Cantonal Administration, and the Municipal Court must also submit such reports to the Cantonal Court.

The reports on the work of courts shall be submitted by the Ministry of Justice and the Administration to the Cantonal Parliament at least once a year.

Article 43

The President of the court shall represent the court in relations with other organs and organizations.

Article 44

The President of the court shall order the completion of the financial plan and the preliminary budgeting of the appropriations of the court.

Article 45

The President of the court shall determine the distribution of jobs and shall ensure that the jobs are completed.

The distribution of jobs shall inevitably include the appointment of judges for minors, and the panels for minors in the second instance with the Cantonal Courts.

Article 46

The President of the court shall appoint a deputy who shall replace him in his absence or incapacity and who shall, if needed, assist him in performing certain duties

within the court administration.

Article 47

In courts in which there are two or more panels or individual judges, ruling upon matters from the same legal area, court departments shall be formed composed of the judges ruling upon those matters.

Article 48

In sessions of the court, departments shall examine the matters of interest for the work in the department, specifically: organization of the internal operations of the department; and other questions of the department; improvement of the methods of work of the department and expert improvement of the judges, expert advisors and court interns deployed to work at the department.

Article 49

The session of the court department shall be convened also when it is established that there is no agreement between particular panels or individual judges in law implementation matters or when one panel or one individual judge departs from the legal position which was adopted in their practical work or from the legal position adopted by all panels.

The session of the court department shall determine the legal positions of the department by the majority of votes of all the judges of the department.

The legal position adopted at the court department session is mandatory for all panels which comprise the department.

If in a particular case the panel of the court in the second instance has already rendered a decision which is not in compliance with the legal positions of another panel,

the presiding judge of the panel or the presiding judge of the court may decide to suspend the distribution of the transcripts of the decision and that the issue of disagreement should be discussed at the court department session.

If in this case the court department session assumes an attitude contrary to the rendered decision, the panel which has rendered the decision must rule upon the matter again.

Article 50

The courts department is managed by the president of the department, who shall be determined by the distribution of the jobs.

The session of the judges department shall be convened and chaired by the president of the department.

When participating in the work of a session of the department, the President of the court shall preside and have the right to vote.

Article 51

The courts shall hold sessions of all judges discussing the issues of interest for the operations of the court and the issues relevant for the social relations and phenomena monitored and studied by the court, and for the problems of the judicial practice, preparing reports and information for the competent bodies, and providing an opinion for the President of the court about the distribution of the court duties.

The President of the court can also invite the lay judges to the session of all judges if the subject of the discussion relates to social relations and phenomena, reports and information for the competent assemblies and other organs and organizations and other similar matters.

Article 52

The session of all judges considers the issues from article 50 and 51 of this law in those courts which do not have conditions to form courts departments.

Article 53

The sessions of all judges shall be convened and chaired by the presiding judge of the court.

VI – JUDICIAL ADMINISTRATION

Article 54

The powers related to the organization of the work of the courts and the supervision over the exercise of court administration shall be executed by the Ministry of Justice of the Canton, unless it is regulated otherwise.

The supervision of the court operations shall comprise specifically:

- whether the operations have been obtained properly and on time;
- whether the operations of the courts administration have been obtained in accordance with the law and other regulations;
- investigation upon claims of citizens, state bodies, enterprises and other organizations and communities.

Article 55

The Ministry of Justice and the Administration of the Canton shall :

- ensure the implementation of this Law and other regulations and measures pertaining to the organization and work of the courts,
- monitor, analyze the organization, the methods of work and the functioning of the courts and undertake measures for the improvement of their organization and

operations,

- monitor, analyze and keep the records of the personnel in courts and take care of their expert improvement,
- ensure the material and other conditions for the work of courts,
- provides courts with orders and instructions for the correct performance of court administration,
- undertake measures for regular and timely completion of the duties in accordance with the law and other regulations,
- examine directly or through the presidents of the Cantonal courts the justification of the complaints pertaining to the work of courts for failure to act, delays in court proceedings or for other reasons,
- provides instructions for gathering of statistical and other data on the work of courts,
- organize the information network for the needs of courts,
- perform other duties as envisaged in the law.

The Ministry of Justice of the Canton may require the courts to supply it with the data and reports necessary to perform duties from its jurisdiction, and may also directly inspect the work of courts.

Article 56

Upon agreement of the Deputy Minister, the Minister of Justice and Administration shall :

- prescribe the organization and the method of internal operations at courts;
- determine the necessary number of judges and lay judges at particular courts;
- determine the orientation perimeters for the necessary number of other employees;
- perform other duties envisaged by the law.

The regulation from line 1 and 3 from the item above shall be issued in accordance to the previously provided opinion of the courts.

Article 57

If it is established that the operations of the courts administration were not obtained in accordance with the regulations or if these were not obtained in time, and it is impairing the function of the court, the Ministry of Justice and Administration of the Canton shall bring this to the attention of the President of the court and make recommendations for the execution of the proposed operations and for the elimination of failures.

If despite these warnings the failures are not eliminated, the Ministry of Justice of the Canton shall inform the competent bodies of this and propose taking the proposed steps.

Article 58

The Ministry of Justice of the Canton shall conduct the procedure and make decisions upon extra-judicial claims of those affected for compensation, rehabilitation and implementation of other rights of persons sentenced unwarrantedly and deprived of liberty upon no grounds.

Upon the decision of the Ministry in accordance with the claim from item one of this article, the Government of the Canton is obliged to present an agreement within the term of 30 days.

Article 59

The regulation established on the basis of the provisions from article 57, item 1 of this law (court administration) shall regulate specifically:

- the work of the court administration

- the procedure of keeping records and the courts statistics,
- the work of full-time expert witnesses
- providing of legal assistance for citizens and organizing of courts days
- the issuing of public information about the work of the court
- recording, invitations and schedule of lay judges
- recording of the executing of the practical training for trainees in courts
- the principles of the organization of the internal operation of the courts
- the procedure of organization and the operating of the courts departments
- the form, content and way of keeping records and the assistant books,
- forms for the work of courts
- dealing with courts acts
- operations in councils
- work in the sessions of the courts departments
- work in the sessions of all judges
- material and financial operations (deposit operations)
- procedure of the executions of operations of international legal support.

VII – JUDGES AND LAY JUDGES

Article 60

The judges of the Cantonal Court shall be proposed by the Governor with the approval of the Deputy Governor and be appointed by the majority of votes of the Parliament of the Canton.

The national composition of the judges of the Cantonal Court must reflect the national structure of the population of the Canton, based on the results of the 1991 census.

Article 61

A citizen of Bosnia and Herzegovina may be appointed a judge of the Cantonal court, who has graduated in law and passed the judicial examination and who has worked at least 5 (five) years with working experience on the duties of a judge, prosecutor or his/her deputy, public legal officer or his/her deputy or as a lawyer and who possesses proven expert skills which are based on the work in the quoted judicial organs or in a lawyer's office, and who possesses the highest moral qualifications for the execution of the function of a judge of the Cantonal court.

Article 62

The Cantonal Court shall appoint and dismiss from among the judges of the Cantonal Court the President of the Cantonal Court by two-third majority of votes of all judges.

The President of the Cantonal court shall be appointed for a period of 4 (four) years, and after the expiration of this period of four years, the President of the Cantonal court shall come from another ethnic group.

The President of the Cantonal court and the Cantonal prosecutor may not come from the same ethnic group at the same time.

Article 63

The initiative for the appointment of the President of the Cantonal court can be brought by the Ministry of Justice and the Administration of the Canton, by the President of the Cantonal court or 10 (ten) representatives of the Cantonal assembly.

Article 64

Before assuming duty, the President and the judges of the Cantonal court shall take a solemn oath.

The solemn oath states as follows:

"I solemnly swear that in performing the duty of a judge of the Cantonal court of the Herzegovina-Neretva Canton I shall abide by the Constitutions and the laws, and that I shall perform the service conscientiously and in an unbiased manner."

The President of the Cantonal Court and the judges of the Cantonal Court shall take the solemn oath before the Cantonal Assembly.

Article 65

A judge of the Cantonal court may serve until age 70, unless they resign or they are removed by the consensus of the Judges of the Supreme Court of the Federation.

Article 66

A citizen of Bosnia and Herzegovina may be appointed a lay judge, when he/she has reached the age

of majority and when he/she possesses the highest moral characteristics to perform the service of a lay judge of the Cantonal court.

Lay judges of the Cantonal court shall be proposed by the President of the Cantonal court, and appointed by the majority of votes of the Cantonal assembly.

Lay judges of the Cantonal court shall be appointed for the period of 4 (four) years and may be re-appointed after the expiration of this period.

Article 67

Before assuming duty, the lay judge shall take a solemn oath.

The solemn oath states as follows:

"I solemnly swear that in performing the duty of the lay judge of the Cantonal court, I shall abide by the Constitutions and the laws, and that I shall perform the service conscientiously and in an unbiased manner."

The lay judges take the solemn oath in front of the Chairman and the Vice-Chairman of the Cantonal assembly.

Article 68

If a criminal procedure has been initiated or the procedure for the dismissal of a lay judge from service has been put in motion against the lay judge, the President of the Cantonal court shall not invite the lay judge to perform duty until the finalizing of the judicial procedure.

Article 69

For the performance of their service of lay judge, lay judges are entitled to receive compensation of costs, compensation of lost salary and remuneration.

The terms and the amount of remuneration as well as remuneration from item 1 of this article shall be determined by the Ministry of Justice and the Administration of the Canton.

Article 70

The regulations of this law which refer to the number and national structure of the judges of the Cantonal court shall be accordingly applied to the lay judges.

Article 71

A citizen of Bosnia and Herzegovina may be appointed a lay judge, if the citizen has graduated in law, passed the judicial examination, possesses at least 2 (two) years of working experience in legal matters after the passed judicial examination and possesses the professional abilities and moral

characteristics for the service of a Municipal court judge.

Article 72

The Ministry of Justice and Administration of the Canton or the President of the Municipal court may take the initiative for the appointment of the judges of the Municipal court.

Article 73

Judges of the Municipal court shall serve until age 70, unless they resign or are removed by the consensus of the Judges of the Cantonal Court.

Article 74

The judges of the Municipal court shall be appointed by the President of the Cantonal court after

consultations with the Head of the Municipality.

If the territory of the Municipal court comprises two or more Municipalities, the judges of this Municipal court shall be appointed by the President of the Cantonal court after consultations with the Heads of these municipalities.

The national structure of the judges of each Municipal court in the Herzegovina-Neretva Canton must reflect the national structure of the population of the municipality or the municipalities for which the municipal court was established, based on the results of the 1991 census.

Article 75

Before assuming duty, the President and the judges of the Municipal court shall take a solemn oath.

The solemn oath states as follows :

“ I solemnly swear that in performing the duty of a

judge of the Municipal court of the Herzegovina-Neretva Canton I shall abide by the Constitutions and the laws, and that I shall perform the service conscientiously and in an unbiased manner."

The President of the Municipal court and the judges of the Municipal court shall take the solemn oath before the President of the Cantonal court.

Article 76

The President of the Municipal court shall be elected and dismissed from among the judges of the Municipal court by two third majority of votes of all judges.

Article 77

A citizen of Bosnia and Herzegovina may be appointed a lay judge of the Municipal court, when he/she has reached the majority of age and when he/she possesses the highest moral qualifications to perform the service of a lay judge of the Municipal court.

Lay judges shall be proposed by the President of the Municipal court and appointed by the President of the Cantonal court.

If the Municipal court is established on the territory of two or more municipalities, the lay judges shall be appointed by the President of the Cantonal court after consultations with the Heads of these municipalities.

Article 78

Lay judges shall be appointed for a period of 4 (four) years and may be re-appointed after the expiration of this period.

Before entering service, the lay judge shall take a solemn oath in accordance with article 67 of this law.

Lay judges of the Municipal court shall take a solemn oath before the President of the Cantonal court.

Article 79

Judges shall be appointed based on the public announcement published in public media available to all citizens of Bosnia and Herzegovina.

The public announcement shall be issued by the Ministry of Justice and Administration based on the proposal for the appointment and data from the records on a vacancy for a judge.

The public announcement from item 1 of this article shall contain the name of the court, the number of judges to be elected, the legal requirements for the applicants, the period in which applications have to be submitted, the evidence and documents to be submitted with the application and the name of the body to which the application is to be submitted, and the obligation of resubmission of documentation to candidates who are not appointed.

Article 80

The candidate shall submit the appointment application to the Ministry directly or via registered mail.

The period for submission of application may not be shorter than 15 days from the day of publication of the announcement.

Along with application, the candidate shall attach the evidence on the fulfilling of the legal requirements for a judge and the data on the past work.

The applications with the proofs and data shall be processed by the Ministry which shall determine the list of candidates by alphabetical order and submit the same together with its opinion on the professional abilities of the

candidates to the Governor and Vice-Governor, or to the President of the Cantonal Court for the further procedure.

During the processing of the applications the Ministry shall require the opinion of the collegiate body of the judges of the proposed court.

The applications of the candidates which do not contain data and proofs from item 3 of this article, shall not be taken into consideration.

Article 81

The decision on the appointment shall be submitted by the President of the Cantonal Assembly, or the President of the Cantonal Court to the appointed candidate and the court where the candidate is appointed to.

The decision on the appointment shall be published in the Official Gazette of the Canton.

Article 82

The service of the judge and lay judge shall terminate upon the replacement from the performance of the service, upon the submission of resignation or upon turning 70 of age.

Article 83

A judge of the Cantonal court or the Municipal court shall be replaced from the performance of service if the judge is sentenced for a criminal act which would degrade from the performance of the service of a judge, or if it is established that the judge severely violated the execution of their judicial duties; or it is established that the judge is not able to perform the service of a judge in a professional manner; or the judge was, over a long period performing duty in a disorderly manner; or the judge was, over a long period of time, not achieving satisfactory results or if in

accordance to the opinion of a health institution it was determined that the judge has lost the ability to perform the service of judge permanently.

Article 84

The initiative for instituting the procedure for the replacement of a judge of the Cantonal court from the performance of service may be submitted by the Governor, Vice-Governor, the Government of the Canton, the Ministry of Justice and Administration of the Canton or 10 (ten) representatives of the Cantonal Assembly.

The initiative for the initiation of a procedure of dismissal of a judge of Municipal Court can be submitted by the Ministry of Justice and Administration of the Canton, President of the Canton or ten (10) Councilors of the Municipal Council of the area for which Municipal Court has been established.

After the execution of the procedure upon the submitted initiative, the Governor and the Vice-Governor shall take a common stand and submit an agreed proposal to the Cantonal Assembly.

The proposal for the dismissing of a judge at the Municipal Court shall be given by the President of the Cantonal court on the basis of the result after the executed procedure upon the submitted initiative.

Article 85

A judge of the Cantonal court can be dismissed by a consensus of Judges of the Supreme Court of the Federation.

A Municipal court judge can be dismissed by a consensus of the judges of the Cantonal court.

Article 86

A decision on relieving a judge from duty shall be made by the remainder of judges of the Cantonal or Municipal court at the general session of all judges of the court and with a majority of votes.

The judge, whose relief is being discussed shall not take part in making the decision on relieving him/her from the duty.

Article 87

The decision on dismissal or relief from the duty of the lay judge of a court of the Canton shall be made by the Cantonal Assembly.

Article 88

The judge and the lay judge shall be entitled to make a statement on relief or dismissal reasons while the procedure of relief or dismissal is taking place.

Article 89

A judge of the Cantonal or Municipal Court shall be relieved from duty if it has been determined that the judge should be taken into custody for criminal conduct.

A judge can be relieved from duty if criminal proceedings or a dismissal procedure is instituted.

Article 90

Regulations on the relief of a judge from his/her duty shall be applied to the relief of a lay judge accordingly.

Article 91

The resignation of a judge or lay judge of the Cantonal Court shall be submitted to the Cantonal assembly.

The resignation of a judge or lay judge of the Municipal Court shall be submitted to the President of the Cantonal Court.

The duties and employment of a judge or lay judge ceases on the day after the day when the resignation is received, unless a dismissal procedure has been initiated. .

Article 92

A judge is obliged to perform duty conscientiously and in a responsible manner and in accordance with the law, and to take care of his/her reputation and the reputation of the respectable Court.

A judge cannot be a member of a political party nor participate in political party activities

A judge of the Cantonal Court cannot be a deputy to the Cantonal Assembly.

While performing duty, a judge cannot be led by his/her political beliefs nor can he/she state and represent them whilst performing his/her duty.

Spouses or next of kin in the horizontal line until the second degree, cannot perform the duties of Judge in the same Cantonal or in the same Municipal Court.

Article 93

A judge cannot perform tasks and duties which might influence his/her independence or sovereignty or which might diminish his/her social reputation or employment or which are otherwise incompatible with

the tasks and duties of the Judge.

The Cantonal Ministry of Justice and Administration decides on the incompatibility of tasks and duties.

Special Rules of Procedure shall define which position or employment is not compatible with the tasks and duties of the Judge in accordance with the regulations of paragraphs 1 and 2 of this Article which will be passed by the Ministry of Justice and the Administration within 6 months as of the day of this Law coming into effect.

Judges are authorized to write expert and science dissertations, publish contents of judicial verdicts, participate in the work of expert and science groups, prepare draft regulations and other similar activities.

Article 94

If a judge is appointed by the Minister of Justice and Administration or Deputy Minister of Justice and Administration or for an official post within the Ministry of Justice and Administration, his/her judicial service shall not be performed as long as he/she performs the appointed service in the executive authority.

If a judge consents, a judge can be assigned other tasks within the Ministry of Justice and Administration but for no longer than two (2) years and during this period the Judge shall not perform judicial service.

Article 95

A judge performs judicial tasks and services at the Court to which he/she is appointed.

A judge of the Municipal Court can be temporarily assigned, without his/her consent, to work at some other Municipal Court but for no more than three (3) months.

A judge of the Municipal Court can, with his/her consent, be assigned to work at some other Municipal Court for a longer period of time or he/she can be permanently transferred.

The resolution on assigning tasks and services pursuant to paragraph 2 and 3 of this Article shall be passed by the Ministry of Justice and Administration after consultations with the President of the Court.

Article 96

During the performance of duty, a judge has the right to receive a salary and other sorts of compensation as defined by the Cantonal Law.

A judge has the right to a pension, disability and health insurance and the benefits deriving therefrom under the general regulations, the right to a vacation and duty leaves which the Court employees have and annual leave in accordance with the Law, the right to material expenditures under the conditions foreseen by the Law and other regulation, as well as the right to be professionally upgraded and specially supported by means of the budget provided for that purpose.

Article 97

The Canton shall be held responsible for the damage that a Judge, whilst performing duty, can cause to citizens or a legal entity by improper or illegal work.

The Canton can require the judge to pay the reimbursement to the Canton for such damage only in cases when the judge has done the damage on purpose or out of extreme neglect.

The demand for reimbursement from Item 2. of this Article shall expire within 6 (six) days from the date of payment of the compensation.

VIII – EMPLOYEES OF THE COURT

Article 98

A Court with more than five judges must have a secretary.

The Court Secretary assists the President of the Court in performing the tasks of the Court administration.

A graduated lawyer with at least 3 years of working experience in legal matters, who has the passed legal exam can be appointed as the secretary of the Cantonal Court.

A graduated lawyer who has passed the legal exam, or an expert exam for employees of government administration and has at least 2 years of working experience, can be appointed as the secretary of a Municipal Court.

Article 99

The Court has expert associates.

Expert associates assist the judge in examination and preparation of subjects for hearings,, deliberations and reporting, in examination of legal matters concerning the work of the court in individual cases, in drawing up of court decisions, taking minutes of complaints, suggestions and other reports as well as the statements of the parties, and in performing other expert tasks as envisaged by the Law or the Rules and Regulations on internal organization of regular courts or an act on internal organization of the court.

A graduated lawyer who has passed the legal exam can be appointed an expert associate at the Cantonal or Municipal Court.

Article 100

There is a certain number of trainees – graduated lawyers at courts.

The number of trainees from the previous section is determined by the enactment on internal organization.

Article 101

Courts can receive other persons for training, who have graduated at the Law Faculty (trainees – volunteers), if they are in need of practice for the purpose of expert training and gaining conditions for passing the legal exam.

Trainees – volunteers are not entitled to compensation during their work.

The number of trainees – volunteers from Section 1. of this Article is determined by the enactment on internal organization of the court.

Receiving of trainees is done by the President of the Court with prior consent by the Ministry of Justice and Administration of the Canton.

Article 102

Trainees – volunteers are received for practice and exercise the practice in the court in accordance with the regulations valid for trainees – volunteers.

An applicant whose application for training is denied can submit an appeal to the Ministry of Justice and the Administration of the Canton within 15 (fifteen) days.

Article 103

President of the Court can cancel any further training practice to a trainee – volunteer because of a severe violation of working duties.

An appeal can be filed to the Ministry of Justice and the Administration of the Canton against the decision from the previous section of this Article within 15 (fifteen) days.

Article 104

Residency of trainees lasts for two years.

During residency, a trainee is trained for performing tasks and duties, the performance of which is conditioned by the legal exam, through practical work on appropriate tasks and duties, with expert assistance of the President or an assigned judge.

Residency is conducted in accordance with the program as established by the Ministry of Justice and Administration of the Canton.

Article 105

There is a certain number of employees at courts who perform expert, administrative and technical-auxiliary tasks.

The number of employees from Section 1. of this Article is determined by the enactment on internal organization.

IX – PERMANENT COURT INTERPRETERS AND EXPERT WITNESSES

Article 106

Permanent Court interpreters translate and interpret at the demand of the Court, government body or a physical person a spoken or written text from the language in official use in the Canton into a foreign language, from the foreign language into the official language in the Canton or from one foreign language to another .

Permanent court interpreters shall be appointed and dismissed by the Cantonal Ministry of Justice and Administration upon the(obtained)opinion of the appropriate bodies or organizations.

Ministry of Justice and Administration shall regulate the conditions that permanent Court interpreters must fulfill, their rights and duties, rewards and compensation of expenses for their work within six months from the day that this Law is in force.

The list of permanent Court interpreters will be published in the Official Gazette of the Canton by the Ministry of Justice and Administration.

Article 107

Permanent Court experts shall assist the Court with their expert knowledge that the Court does not have at its disposal, when this is necessary for establishing or resolving legally relevant facts.

Article 108

Experts' reports can be provided by legal and physical persons.

In order to be appointed as an expert witness, a physical person must have a university degree in the respective area of expertise. Sometimes, an expert can be a person with two year university education. Legal persons can perform as experts only in the framework of their registered activity upon the condition that the expertise is done by their employees who meet the criteria for physical persons from paragraph 1 of this article.

Article 109

Permanent expert witnesses – physical persons shall be appointed and dismissed by the Ministry of Justice and Administration of the Canton.

Article 110

Ministry of Justice and Administration shall prescribe the conditions that must be met by physical and legal persons for performing as experts , their rights and duties, the amount of award and expenses of their work, unless regulated otherwise by special regulation, in a six months deadline starting from the date of entry into force of this law .

Article 111

The list of physical and legal persons who can perform expertise is published in the Official Gazette of the canton.

X – NON-DISCLOSURE OF AN OFFICIAL SECRET

Article 112

Judges, lay judges, secretaries, expert associates, court trainees and other court employees, permanent court translators and forensics are obliged not to disclose any official secrets learned in the course of their duties to anyone but the appropriate Court personnel, regardless of the way they learned of it.

Under the term of official secret, it is meant especially:

- everything that is designated an official secret by the law or other regulations,
- everything that is designated as secret, i.e. business secret by general acts of legal and other persons, organizations and institutions,
- information and documents specially marked as official, i.e. business secret by the state organizations or legal persons other bodies, organizations or institutions.
- information or documents marked as official secret by President of the Court or authorized Court official.

Article 113

The obligation not to disclose an official secret is still valid after the court employment of a Court official or employee has ceased.

The President of the court can relieve the judge or the court employee from the obligation not to disclose official secrets, if there are justifiable reasons to do so.

For the President of the Municipal court, a decision from paragraph 2. of this article is made by the President of the Cantonal court and for the President of the Cantonal Court, such a decision is made by the assembly of Canton court judges.

Article 114

A judge or a court employee is not allowed to inform unauthorized persons on the personal, family or property status of citizens.

Access to court acts can be approved by the judge or other court employees, as identified by the annual distribution of tasks to persons who are authorized to do so by a special regulation.

XI – MEANS FOR COURT'S WORK

Article 115

Means for court work are obtained from the Canton budget.

Means for court work include means for performing regular work (means for salaries for courts and other employees, means for material purchasing, means for maintenance of things and equipment and buildings) and means for special purpose.

Article 116

Financial and material operations of the courts are performed in the same way that applies to state administration bodies, while financial and material operations related to the parties are performed in the way that is described by the law and regulation enacted by the Ministry of Justice and Administration of the Canton.

Article 117

Judges involved in investigation as well as those performing tasks in first instance trials will receive

for each full year of work a higher insurance rate and basic salary according to a special law.

In case some of the courts cannot fill all the positions for judges, the Minister of Justice and Administration and his/her Deputy can decide to grant judges special salary benefits by increasing their basic salary by 50 %.

Article 118

When the user of a court deposit fails to claim the deposit within two years from the date of the final court decision which is ordering the deposit and inviting the user to claim the deposit, the court shall decide that the right of the user to claim the deposit has expired and the deposit will be transferred to the Cantonal budget.

XII – INTERIM AND FINAL REGULATIONS

Article 119

Cantonal and Municipal courts will start to work on the day judges are appointed.

After this law has been adopted, the Minister of Justice and Administration in accordance with his/her Deputy will establish a list of judges and lay judges of the Cantonal and Municipal courts.

Article 120

A judge or a court employee who is not re-appointed under the provisions of this Law shall receive his/her salary and other allowances for judges or other employees of the respective court for a period of six months after cessation of duty as a judge or court employee unless he/she starts working

elsewhere, accepts a job which is compatible with his/her university degree or completes the pension years necessary to obtain a full pension.

Article 121

The Presidents of the Cantonal and Municipal courts shall issue rules of procedure on the internal organization of courts within 30 days from the date of their appointment.

Article 122

Until the Rules of Procedure on internal management of courts are issued, the existing Rules of procedure on internal management of regular courts will be applied, in accordance with the regulations of this law and insofar as not inconsistent with this law.

Until regulations are issued by the Ministry of Justice and Cantonal Administration, the existing regulations will be applied, in accordance with the regulations of this law and insofar as not inconsistent with this law.

According to the regulations of this law, the Ministry of Justice and Cantonal Administration or the Minister himself/herself are authorized to issue the above-mentioned regulations, by no later than 6 (six) months from the date of entry into force of this law.

Article 123

On the day the Cantonal court and the Municipal courts become operational, all currently existing Basic and Higher courts on the territory of the Herzegovina-Neretva Canton shall, in accordance with the provisions of this law, transfer the cases from their jurisdiction to the jurisdiction of the henceforth competent Cantonal Court or Municipal court, which are established by this Law.

The transfer of cases from paragraph 1 of this

Article as well as the transfer of the material-technical means shall be carried out by Presidents of the courts, who will draft minutes within a period not exceeding 30 days from the date of the appointment of judges.

A copy of the minutes shall be delivered to the Ministry of Justice and Cantonal Administration.

The Ministry of Justice and Administration shall issue instructions regulating the transfer of cases and material-technical means.

Disputes concerning the transfer of cases and material-technical means or concerning the application of the instructions from paragraph 4 of this Article shall be resolved by the Minister of Justice and Administration in agreement with his/her Deputy.

Article 124

Those cases already submitted to a court, in which the first instance decisions are not to be issued until this law comes into effect, shall, within a period of 30 days, be transferred to the courts under the jurisdiction of which they shall henceforth be dealt with, which shall be regulated by this Law.

According to the previous regulations, the courts which have territorial and legal competence in cases from their previous jurisdiction, shall finish the investigation of those cases in which they have already made decisions regarding the conduct of the investigation.

The take over of the Court Archives shall be regulated by a separate decision of the Minister of Justice and Administration in agreement with his/her Deputy.

Article 125

The substantive regulations which were applied in

the Canton on the date of entry into force of this law, shall, for a transitional period, be applied by all courts of the Canton, until new regulations are issued by the relevant bodies of the Canton and insofar as not inconsistent with this law. In any case, the transitional application of those regulations may cease with the courts' starting to work, as determined by this law.

Article 126

The Laws on Courts which were applied on the territory of the HN Canton shall cease to be applicable law upon entry into force of this law.

Article 127

This law enters into force on 3 August 1998.

Article 128

Without prejudice to its entry into force, this Law shall be published in the Official Gazette of the Herzegovina-Neretva Canton.

THE LAW ON THE COURT FOR THE CENTRAL ZONE OF

THE CITY OF MOSTAR

Article 1

In accordance with Article 27 of the Law on the Courts of the Herzegovina-Neretva Canton, and taking into account the specificity of the City of Mostar, a Central Zone Court is hereby established for the Central Zone and the other areas which are directly administered by the organs of the City of Mostar.

Article 2

The seat of the Central Zone Court shall be in the Central Zone of the City of Mostar.

Article 3

If not otherwise provided by this law, all provisions of the Law on the Courts of the Herzegovina-Neretva Canton which are applicable to Municipal Courts shall apply equally to the Central Zone Court.

Article 4

The national structure of the Central Zone Court shall reflect the overall national structure of the population in the entire City of Mostar, based on the results of the 1991 census.

Article 5

This law enters into force on 3 August 1998.

Article 6

Without prejudice to its entry into force, this Law shall be published in the Official Gazette of the Herzegovina-Neretva Canton.