

Decision Nullifying and Voiding the Decision of the HoR of the Parliament of the FBH on Confirmation of the Decision on Appointment of the PM/President, the Deputy PM and the Ministers in the FBiH Government adopted at its Session held on 22.03.2007

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 “[f]acilitate, 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";

Noting Article IV.B.5.(1) of the Constitution of the Federation of Bosnia and Herzegovina which provides, *inter alia*, that "[T]he Government shall be elected after its appointment has been confirmed by a majority vote of the House of Representatives of the Federation";

Considering that by his letter of 28 November 2002, the High Representative decided that the evolving nature of the peace process was requiring the extension of the "vetting process" and hence required the authorities of Bosnia and Herzegovina to communicate to the Office of the High Representative the names of suitable nominees for certain ministerial positions at State, Entity and cantonal level prior to their appointment and/or confirmation;

Mindful of the fact that the President of the Federation of Bosnia and Herzegovina, on 9 March 2007, forwarded to the High Representative a list of suitable nominees for the positions subject to vetting, mentioning the need to complete the vetting process prior to their definitive appointment;

Noting that, on 21 March 2007, the President of the Federation of Bosnia and Herzegovina, in agreement with her Vice Presidents, adopted the Decision on Appointment of the Prime Minister/President, the Deputy Prime Ministers and the Ministers in the Government of the Federation of Bosnia and Herzegovina and forwarded the Decision to the House of the Representatives of the Parliament of the Federation of Bosnia and Herzegovina for confirmation;

Noting further, that the deadline of ten working days in which the High Representative endeavors to complete the vetting process under his Decision of 28 November 2002 is due to lapse on 23 March 2007;

Deploring therefore, that the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina, at its Session held on 22 March 2007, adopted the *Decision on Confirmation of the Decision on Appointment of Prime Minister/President, the Deputy Prime Ministers and the Ministers in the Government of the Federation of Bosnia and Herzegovina* prior to the completion of the vetting process;

In full awareness that the institution of vetting continues to be necessary in order to strengthen the system of scrutiny of nominees for ministerial positions and to prevent abuse of powers by public officials and that said institution therefore remains essential to the peace implementation process;

Conscious that the institution of vetting needs to be transferred to domestic institutions and **regretting** that no legislation has been put in place in this respect by the authorities of the Federation of Bosnia and Herzegovina;

Having taken into account and considered the totality of all matters aforesaid the High Representative hereby issues the following:

DECISION

Nullifying and Voiding the Decision of the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina on Confirmation of the Decision on Appointment of the Prime Minister/President, the Deputy Prime Ministers and the Ministers in the Government of the Federation of Bosnia and Herzegovina adopted at its Session held on 22 March 2007

Article 1

The Decision of the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina on Confirmation of the Decision on the Appointment of the Prime Minister/President, the Deputy Prime Ministers and the Ministers in the Government of the Federation of Bosnia and Herzegovina (hereinafter: the Decision on Confirmation) adopted at its Session held on 22 March 2007 is hereby declared null and void *ab initio*, and is without any legal effect whatsoever.

Article 2

For the avoidance of doubt, it is hereby specifically declared that the outgoing Government of the Federation of Bosnia and Herzegovina and its members will continue to act in a caretaker capacity until a new Decision on Confirmation of the appointment of the Government of the Federation of Bosnia and Herzegovina enters into force.

Article 3

The House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina may only adopt a new Decision on Confirmation of the appointment of the Government of the Federation of Bosnia and Herzegovina following express notification by the High Representative of the result of the vetting process.

Article 4

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

Sarajevo , 23 March 2007

*Dr. Christian Schwarz-Schilling
High Representative*