

Decision on Appointment of the International Registrar to the Registry for Section I for War Crimes and Section II for Organized Crime, Econ. Crime and Corruption of the Criminal and Appellate Divisions of the Court of BiH

n. 328/04

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”;

Considering 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 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;

Considering further paragraph 3 of Annex II (Rule of Law and Human Rights) to the last said Declaration, according to which the establishment of judicial institutions at the State level, which meet an established constitutional need to deal with criminal offences perpetrated by public officials of Bosnia and Herzegovina in the course of their duties, and with administrative and electoral matters, is a precondition for the establishment of the rule of law in Bosnia and Herzegovina

Bearing in mind the reinvigorated strategy for judicial reform to strengthen the Rule of Law efforts in Bosnia and Herzegovina which was endorsed by the Steering Board of the Peace Implementation Council on 28 February 2002 and noting that the aforementioned strategy was devised in response to calls by the authorities in Bosnia and Herzegovina for firmer International Community actions to tackle economic crime, corruption and problems inherent in the judicial system;

Noting that the communiqué of the Steering Board of the Peace Implementation Council issued at Sarajevo on 26 September 2003 stated that the Board took note of the UN Security Council Resolution 1503, which, *inter alia*, called on the International Community to support the work of the High Representative in setting up the war crimes chamber. The Steering Board called on the BiH authorities and potential contributors to attend the donors’ conference at The Hague and to consider how they might support the war crimes chamber in order to permit its earliest possible establishment;

Noting further that the Steering Board of the Peace Implementation Council on April 1 2004 tasked the High Representative to engage with the BiH authorities in discussion to decide on the legal process aiming at establishing a Domestic War Crimes Registry, and fully to associate the donors with these discussions. The Registry should manage and administer war crimes trials in BiH, with a view to having the first war crimes processed in January 2005;

Recalling the Agreement between the High Representative for Bosnia and Herzegovina and Bosnia and Herzegovina on the Establishment of the Registry for Section I for War Crimes and Section II for Organized Crime, Economic Crime and Corruption of the Criminal and Appellate Divisions of the Court of Bosnia and Herzegovina and

the Special Department for War Crimes and the Special Department for Organized Crime, Economic Crime and Corruption of the Prosecutor's Office of Bosnia and Herzegovina signed by the Presidency of Bosnia and Herzegovina and the High Representative on December 1 2004;

Recalling further the Decision of the Presidency of Bosnia and Herzegovina on December 2 2004 giving its consent to apply on a temporary basis the Agreement between the High Representative for Bosnia and Herzegovina and Bosnia and Herzegovina on the Establishment of the Registry for Section I for War Crimes and Section II for Organized Crime, Economic Crime and Corruption of the Criminal and Appellate Divisions of the Court of Bosnia and Herzegovina and the Special Department for War Crimes and the Special Department for Organized Crime, Economic Crime and Corruption of the Prosecutor's Office of Bosnia and Herzegovina;

Convinced of the need for justice in respect of the gross violations of human rights which occurred during the conflict, the fact that while this is a universal concern it is also one which must ultimately be addressed by the people of Bosnia and Herzegovina, and the need for support from a Registry that can provide the necessary physical infrastructure and administrative assistance to facilitate the Court of Bosnia and Herzegovina and the Prosecutor's Office of Bosnia and Herzegovina in dealing with these matters;

Mindful of the need to establish the Registry and Section I for War Crimes of the Criminal and Appellate Divisions of the Court of Bosnia and Herzegovina and the Special Department for War Crimes in the Prosecutor's Office of Bosnia and Herzegovina, and to appoint the International Registrar and for all the reasons as aforesaid,

The High Representative hereby issues the following

DECISION

On Appointment of the International Registrar to the Registry for Section I for War Crimes and Section II for Organized Crime, Economic Crime and Corruption of the Criminal and Appellate Divisions of the Court of Bosnia and Herzegovina and the Special Department for War Crimes and the Special Department for Organized Crime, Economic Crime and Corruption of the Prosecutor's Office of Bosnia and Herzegovina

1. As provided by Article 3 paragraph 1, of the Agreement between the High Representative for Bosnia and Herzegovina and Bosnia and Herzegovina on the Establishment of the Registry for Section I for War Crimes and Section II for Organized Crime, Economic Crime and Corruption of the Criminal and Appellate Divisions of the Court of Bosnia and Herzegovina and the Special Department for War Crimes and the Special Department for Organized Crime, Economic Crime and Corruption of the Prosecutor's Office of Bosnia and Herzegovina ("Official Gazette Bosnia and Herzegovina" 12/04, hereinafter: the Agreement), and in accordance to the Decision on Approval of the Application Until the Entry Into Force of the Agreement between the High Representative for Bosnia and Herzegovina and Bosnia and Herzegovina on the Establishment of the Registry for Section I for War Crimes and Section II for Organized Crime, Economic Crime and Corruption of the Criminal and Appellate Divisions of the Court of Bosnia and Herzegovina and the Special Department for War Crimes and the Special Department for Organized Crime, Economic Crime and Corruption of the Prosecutor's Office of Bosnia and Herzegovina ("Official Gazette of Bosnia and Herzegovina - International Agreements", No. 12/04, 12/8/04), the following person is hereby appointed as the Registrar of the Registry for Section I for War Crimes and Section II for Organized Crime, Economic Crime and Corruption of the Criminal and Appellate Divisions of the Court of Bosnia and Herzegovina and the Special Department for War Crimes and the Special Department for Organized Crime, Economic Crime and Corruption of the Prosecutor's Office of Bosnia and Herzegovina (hereinafter: the Registrar).

Michael Th. Johnson

2. The term of appointment of the Registrar shall be for five years. Pursuant to the Agreement the Registrar will co-operate with the Oversight Committee and provide to the High Representative,

national authorities and international donors an annual report on the work of the Registry for Section I for War Crimes and Section II for Organized Crime, Economic Crime and Corruption of the Criminal and Appellate Divisions of the Court of Bosnia and Herzegovina and the Special Department for War Crimes and the Special Department for Organized Crime, Economic Crime and Corruption of the Prosecutor's Office of Bosnia and Herzegovina.

3. The appointment made pursuant to this Decision shall take effect from 17 December 2004.
4. This Decision shall enter into force forthwith and shall be published without delay in the Official Gazette of Bosnia and Herzegovina.

Sarajevo, 17 December 2004

Paddy Ashdown

High Representative