

Decision on the Law on Attorneys' Profession of the Federation of Bosnia and Herzegovina

In the exercise of the powers vested in me 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 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;

Mindful of the United Nations Basic Principles on the Role of Lawyers, endorsed by the General Assembly of the United Nations in December 1990, which states that “[the] adequate protection of the human rights and fundamental freedoms to which all persons are entitled, be they economic, social and cultural, or civil and political, requires that all persons have effective access to legal services provided by an independent legal profession...[and that]...professional associations of lawyers have a vital role to play in upholding professional standards and ethics, protecting their members from persecution and improper restrictions and infringements, providing legal services to all in need of them, and cooperating with governmental and other institutions in furthering the ends of justice and public interest...”;

Mindful further of Council of Europe Committee of Ministers Recommendation Rec(2000)21 on the freedom of exercise of the profession of lawyer (Adopted by the Committee of Ministers on 25 October 2000)- *Principle I – General principles on the freedom of exercise of the profession of lawyer*, paragraph 1, which states that “[a]ll necessary measures should be taken to respect, protect and promote the freedom of exercise of the profession of lawyer without discrimination and without improper interference from the authorities or the public, in particular in the light of the relevant provisions of the European Convention on Human Rights.”

Noting that a truly independent and properly regulated legal profession is essential to ensure the rule of law in all criminal, civil and commercial matters and to guarantee the advancement of human rights and freedoms and reconciliation within Bosnia and Herzegovina;

Recalling the Memorandum of Understanding on Regulation of Legal Assistance between Institutions of the Federation of Bosnia and Herzegovina and the Republika Srpska, signed May 1998, which states that “...in the interest of unimpeded functioning of the legal practice in the entire territory of Bosnia and Herzegovina, both Entities commit themselves to harmonise their legislation concerning legal practice, in order to ensure that lawyers can register with any Bar Association in Bosnia and Herzegovina and will be eligible to exercise their duties in both Entities without further requirements.”

Recognising however that the laws on the legal profession currently in effect in the Republika Srpska and Federation of Bosnia and Herzegovina lack harmony on issues essential for the fair, proper and uniform regulation of the legal profession in Bosnia and Herzegovina;

Acknowledging the efforts of those within the domestic legal community who produced a draft law on the legal profession for the Federation of Bosnia and Herzegovina, as well as the efforts of the Federation Parliament towards its passage and the advice and assistance of the Council of Europe in respect of the laws on the legal profession;

Having considered and borne in mind all the aforesaid matters, I hereby issue the following

DECISION

The Law on Attorneys' Profession of the Federation of Bosnia and Herzegovina, which is hereby attached as an integral part of this Decision, shall enter into force as a law of the Federation of Bosnia and Herzegovina, with effect from the date provided for in Article 74 thereof, on an interim basis until such time as the Parliament of the Federation of Bosnia and Herzegovina adopts this law in due form, without amendments and with no conditions attached.

This Decision shall enter into force immediately and the Decision, accompanied by the text of the Law, shall be published forthwith in the Official Gazette of the Federation of Bosnia and Herzegovina.

Sarajevo, 22 May 2002

Wolfgang Petritsch

High Representative