

RS National Assembly Conclusions in Violation of Dayton



The Office of the High Representative would like to clarify and confirm that the RS Government's positions of 14th December 2009 and the RS National Assembly Conclusions of 28 December 2009 – rejecting the implementation of the laws of Bosnia and Herzegovina enacted by the High Representative – are in violation of the Dayton Peace Agreement.

The High Representative derives his powers from international law, including legally binding decisions of the United Nations Security Council. The RS authorities are reminded that the powers of the High Representative to make binding decisions has been re-affirmed by the UN Security Council on a regular basis since 1997 through several resolutions adopted under Chapter VII of the United Nations Charter.

The Republika Srpska must respect the Dayton Peace Agreement in its entirety and must not challenge actions undertaken on the basis of Dayton and UN Security Council Resolutions adopted under Chapter VII of the United Nations Charter.

The RS authorities cannot state that they act fully in accordance with the Dayton Peace Agreement and at the same time disregard Annex X by continuously challenging the High Representative and his powers under the Dayton Peace Agreement. The High Representative is, under Annex X of the Dayton Peace Agreement, the final authority to interpret the civilian aspects of the Dayton Peace Agreement which also

requires that the High Representative "shall facilitate, as he judges necessary, the resolution of difficulties arising in connection with civilian implementation".

Conclusions that negate the legal framework regulating BiH judicial institutions, including issues regarding cooperation with the ICTY, are a direct attack to the very concept of the rule of law. In this context it is questionable why the RS authorities feel the need to hold a referendum on whether the RS should observe the rule of law, including cooperation with the ICTY. It is an obligation of all the countries, especially the Dayton signatories, to cooperate with ICTY. The parties have an obligation from Article IX of the Dayton Agreement to: "Cooperate in the investigation and prosecution of war crimes."

Finally, there is an obligation stemming from the fact that the Decision of the High Representative is based on a unanimous agreement by the PIC SBA of 14 December to extend the mandate of international judges and prosecutors in the area of war crimes, gradually replacing them with local judges and prosecutors.

OHR will inform the PIC Steering Board and the UN Security Council that with the latest conclusions the RS Government and the RSNA have engaged in negating the terms of the Dayton Peace Agreement and disregarding several UN Security Council Resolutions adopted under Chapter VII of the United Nations Charter.

The High Representative regrets that at the end of the year there has to be a discussion on this issue, but he needs to once again clarify his position.

Valentin Inzko would like to use this opportunity to wish all the best to all the citizens of Bosnia and Herzegovina. May the New Year bring them good health and lots of joy.