

# High Representative Amends Rule of Law Legislation

The High Representative, Paddy Ashdown, today enacted essential technical amendments to legislation, resolving urgent issues that will strengthen the Rule of Law in Bosnia and Herzegovina. The High Representative had already announced the need for these changes at a Press Conference held on 21 October this year.

The amended laws will ensure that justice is applied equally to all in courtrooms throughout BiH. They will also boost confidence among investors and entrepreneurs, by improving mechanisms for resolving commercial disputes.

The High Representative enacted amendments to the ten FBiH Canton Laws on Courts and the RS Law on Courts and Judicial Service, based on the Independent Judicial Commission's report of 21 October 2002. These amendments reduce the number of first-instance courts in BiH to 47, from the current 78. The amendments also set up new Commercial departments in certain first-instance courts, which will hear cases that require expertise in the field of commercial law originating anywhere in the relevant Canton (FBiH) or District (RS). The amendments also transfer first-instance jurisdiction for civil cases from cantonal and district courts to municipal and basic courts respectively in order to harmonise subject matter jurisdiction and rationalise procedures.

The Entity Ministries of Justice will be responsible for dealing with court consolidations, in co-operation with the Independent Judicial Commission. According to the amendments enacted by the High Representative, the Entity High Judicial and Prosecutorial Councils (HJPCs) will decide, following the reselection of an appropriate number of judges for these

restructured courts, the date on which these new courts become operational.

Also amended today by the High Representative are;

The Judicial Training Centre Laws in both BiH Entities, which now no longer require the Director of each centre to be a sitting judge, and provide for the HJPCs to exercise oversight over the work of the Steering Boards. The Judicial Training Centre Steering Boards are now subject to the same selection and disciplinary procedures that apply to judges and prosecutors.

The State-level Law on the High Judicial and Prosecutorial Council of BiH, which now permits applications to positions as judges and prosecutors by individuals who have received law degrees from institutions in other former Republics of the former Yugoslavia.

The FBiH Defamation Law, which now maximises the freedom of expression while adequately regulating the protection available to individuals from false statements which may damage their reputation. Criminal penalties for defamation are also repealed today. This means that criminal penalties can no longer be brought for bringing information to the public's attention. The enactment of the Law on Protection Against Defamation today rectifies the legal inequality that existed between the Entities following the adoption of a similar law in RS in 2001.

A Draft of the BiH Criminal Procedure Code was also forwarded by the High Representative today to the BiH Ministry of Civil Affairs and Communications (MCAC), the Ministers of Justice of both BiH Entities and the Brcko District Judicial Commission for adoption.

This crucial legislation was drafted by BiH legal experts and introduces provisions which include putting the Prosecutor in charge of investigations, enabling evidence collected during

the investigative phase to be used at the main trial, introducing new measures allowing the seizure of goods related to a crime, introducing invigorated investigative measures and setting a limit on the duration of custody during the main trial. Appeal procedures are also limited under this proposal, and must be decided by the appellate court itself, not returned to the first-instance court as has been the case to date. These new solutions are in accordance with the Draft BiH Criminal Code, which was sent to the BiH MCAC in July and had its first reading in the BiH House of Peoples in September. Both of these codes should be on the statute books before the end of the year when the BiH Court becomes operational.

The High Representative has expressed his appreciation to the Entity Ministers of Justice for their co-operation and has indicated that he expects them to ensure that the Entity criminal codes and criminal procedure codes are harmonised with the state-level proposals. Without an efficient criminal justice system, crime will continue to undermine the institutions of BiH and the quality of life of its citizens.