

High Representative decides SPRA between RS and FRY does not violate vital interests

The High Representative, Wolfgang Petritsch, today concluded that the Agreement on the Establishment of Special Parallel Relations (SPRA) between the Republika Srpska and the Federal Republic of Yugoslavia does not constitute a threat to the vital interests of any of the Constituent Peoples of Bosnia and Herzegovina. This issue had been forwarded by the RS Constitutional Commission to the HR for final resolution.

The response of the High Representative notes that the BiH Constitution grants the right for Special Parallel Relationship Agreements to be concluded between an Entity and a neighboring state, as long as it is consistent with the sovereignty and territorial integrity of BiH. These agreements do not require the consent of the BiH Parliament.

The signatories to the application to the High Representative to resolve the issue, namely Bosniak and Croat members of the RS Constitutional Commission, raised six concerns, each of which is addressed in the High Representative's response.

- The signatories to the request stated that the FRY has not yet ratified the General Framework Agreement for Peace in Bosnia and Herzegovina (GFAP) but has already ratified the Special Parallel Relationship Agreement. However, the GFAP explicitly states that its terms come into force upon signature. The FRY is bound by international law to honour the GFAP, and the Special Parallel Agreement recognises the authority of the state of BiH, much more specifically than in the Agreement between the Federation of BiH and Croatia.

- The lack of full bilateral relations between BiH and FRY is also raised by the signatories to the request. However in the particular case of BiH it is clear that FRY recognized BiH as a sovereign independent state as early as 1995 when the GFAP was signed (Article X of the GFAP). FRY thereby committed itself to respect fully the constitutional provisions regarding Special Parallel Relationship Agreements. Moreover, BiH and the FRY established diplomatic relations in December 2000.
- The signatories to the request claim that the SPRA regulates issues of importance to citizens and Constituent Peoples but violates the ruling of the BiH Constitutional Court on the constituency of peoples in the whole territory of BiH. In fact, the Agreement itself does not in any way discriminate as to those who are intended to benefit from it.
- The signatories to the request further maintain that several areas of cooperation violate the vital interests of Constituent Peoples. However, the details of these areas of cooperation are subject to the negotiation of annexes to the SPRA. Careful consideration will have to be given to the constitutionality of such cooperation consistent with the sovereignty and territorial integrity of BiH. For example, it goes without saying that defence cooperation must be limited to areas that do not threaten such sovereignty and territorial integrity.
- The signatories to the request claim that the bodies established under the Agreement, i.e. the Council for Cooperation and the Standing Committee, include only Serb representatives and are therefore discriminatory against Bosniaks and Croats. However, the relevant provisions in the Special Parallel Relationship Agreement do not specify the ethnic affiliation of the members of these bodies.

The High Representative will ensure that the commitments in

the Agreement respect the constitutional order of BiH, and that the territorial integrity and sovereignty of BiH will not be infringed, and stresses that the OHR will be fully consulted in drafting the annexes to the SPRA between the RS and FRY and will be monitoring their implementation.

In addition, the High Representative reminds all parties involved, that the BiH Constitution provides for the jurisdiction of the BiH Constitutional Court over the provisions of a Special Parallel Relationship Agreement, including those concerning the sovereignty and territorial integrity of Bosnia and Herzegovina.

The High Representative finally notes with satisfaction the progress made over the last months with regard to relations between BiH and FRY, notably with the agreement concluded on 22 May 2001 regarding the establishment of the BiH-FRY Interstate Council. Many of the day-to-day concerns of the BiH citizens will need to be addressed in this and other state level fora.

[OHRas Response to request from the Commission for Constitutional Issues of the Republika Srpska](#)