

High Representative Issues Decisions Strengthening Judicial Reform Across BiH

The High Representative, Wolfgang Petritsch, today imposed a package of decisions establishing the institutional framework necessary to reform the judiciary in the coming months. These Decisions will strengthen the judicial reform process at the State and Entity level in BiH, establishing the basis for a truly independent judiciary as the third branch of democratic government.

The package sets up High Judicial and Prosecutorial Councils at the State level and in each Entity, establishes Judicial Training Institutes and Bar Associations in each Entity, and promulgates a State law on inter-Entity co-operation in judicial matters. It also includes the removal of the Canton 7 Deputy Minister of Justice from his post and suspends eleven other judges.

The High Judicial and Prosecutorial Councils at the State level and in BiH's two Entities now established by the High Representative will implement clear and transparent criteria for a system of direct and independent appointment of all judges and prosecutors with the exception of judges of the Constitutional Court. Also specified are procedures under which the High Judicial and Prosecutorial Councils may take disciplinary action against judges and prosecutors. With regard to candidates for posts with the Constitutional Courts of BiH and the Entities, the High Judicial and Prosecutorial Councils will make recommendations, but the appointment – and any disciplinary procedures against these judges – will remain with the State or Entity Parliaments, in line with current constitutional provisions.

The members of the High Judicial and Prosecutorial Councils at the State and Entity levels will be nominated in the coming weeks by the High Representative and will include international representatives during a transitional period to the end of 2003. The High Representative has also directed the Entity Prime Ministers, in accordance with Article III of the BiH Constitution, to start negotiations within 60 days to establish a single High Judicial and Prosecutorial Council. This will match current European practice, ensuring identical application of standards in professionalism and independence across BiH.

The High Judicial and Prosecutorial Councils will readvertise all judicial and prosecutorial posts in September of this year. Appointments to these posts will be based on merit alone. The High Representative encourages current judges and prosecutors to apply, once the positions are declared vacant, noting that by going through this process, the image and independence of judges and prosecutors will be dramatically improved.

In addition, the High Representative has removed Canton 7 Deputy Minister of Justice, Davor Silic, for attempting to undermine the independence of the appointment process for judges and prosecutors, for failing to comply with a fifteen-day deadline to vacate illegally occupied property, and for delaying the ongoing process of merging the judiciary in Canton 7. Mr. Silic's removal from his ministerial position is effective immediately. The High Representative has also suspended from office the following judges and prosecutors: Mirko Bralo, the president of the Livno Municipal Court, and Katica Tadic, a judge of this Court; Omer Borovac, judge of the Gorazde Municipal Court; Fatima Djukic-Bajramovic, judge of the Zenica Municipal Court; Nedjo Draskovic, judge of the RS Supreme Court; Nenad Gvozdic, judge of the Mostar Municipal Court I; Jevto Jankovic and Zeljko Lalic, judges of the Banja Luka Basic Court; Hasan Pijanic, judge of the Una-Sana

Cantonal Court; Milenko Tomic, Public Prosecutor at the Prijedor Basic Public Prosecutor's Office; and Kata Zovko, judge of the Herzegovina-Neretva Cantonal Court. They are all suspended because of serious allegations of violations of the rule of law. The suspensions will remain in place until the allegations have been reviewed by the appropriate Entity-level High Judicial Council.

The High Representative has also imposed laws to advance the fight against crime and professionalise the judiciary:

The Law on Legal Assistance and Official Co-operation in Criminal Matters between the FBiH, the RS and the District of Brcko will simplify procedures for co-operation between courts, prosecutors and law enforcement agencies across BiH. Serving arrest warrants, providing legal assistance, court summonses and other types of co-operation can now be completed on receipt of a written request, without the need for further, higher level, intervention. The co-operation established under this law will facilitate a more effective approach to discovery, investigation and prosecution of all kinds of crime across BiH.

The Law on Attorney Profession is based on the Memorandum of Understanding on Regulation of Legal Assistance between Institutions of the FBiH and the RS of May 1998, though the respective Entity legislation had not been harmonised accordingly. Members of the legal profession now have equal regulation and admission criteria, and the right to practise across BiH. The Decision creates a single, unified Bar Association in the FBiH, where none has existed since 1992. This enhances the individual's right to legal representation of his/her choice and enables the representation of BiH attorneys in international bar associations.

The Entity Judicial and Prosecutorial Training Centres in Banja Luka and Sarajevo established by the High Representative will provide training for those considering a career as a

judge or prosecutor, and mandatory advanced training for existing judges and prosecutors. The training centres will work closely with the High Judicial Councils to ensure a professional and independent judiciary for the future of BiH.

The High Representative has issued these Decisions following detailed consultation with the Council of Europe's legal experts and the Venice Commission and in line with the recommendations of the Steering Board of the Peace Implementation Council.