

**DECISION OF THE
HIGH REPRESENTATIVE**

**The High Representative's Decision Enacting the Law on Amendments to the
Criminal Code of the Federation of Bosnia and Herzegovina**

November 26, 2004

n. 302/04

In the exercise of the powers vested in the High Representative 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 said 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;

Bearing in mind all the efforts made to implement the reinvigorated strategy for judicial reform to strengthen the Rule of Law in Bosnia and Herzegovina and its Entities in 2002/03, which was endorsed by the Steering Board of the Peace Implementation Council on 28 February 2002 and which efforts are, among others, reflected in adoption of new criminal legislation and in strengthening of judicial and prosecutorial institutions throughout Bosnia and Herzegovina;

Noting the provision of the Criminal Code of the Federation of Bosnia and Herzegovina concerning pardon enables a person to be released even from a criminal prosecution

Noting further that such a definition of pardon enables the executive authorities to give clemency in advance, which would amount to the immunity from prosecution and extreme non-liability;

Mindful of the need to ensure respect for judicial decisions as well as transparency and publicity in the criminal justice system;

Having considered and borne in mind all these matters, the High Representative hereby issues the following

DECISION

Enacting the Law on Amendment to the Criminal Code of the Federation of Bosnia and Herzegovina

(Official Gazette of the Federation of Bosnia and Herzegovina, Nos. 36/03, 37/03 and 21/04)

Which is hereby attached as an integral part of this Decision.

The said Law shall be published on the official website of the Office of the High Representative and shall enter into force as a law of the Federation of Bosnia and Herzegovina, with immediate effect, on an interim basis, until such time as the Parliament of the Federation of Bosnia and Herzegovina adopts this Law in due form, without amendment and with no conditions attached.

This Decision shall enter into force forthwith and shall be published without delay in the “Official Gazette of the Federation of Bosnia and Herzegovina”.

Sarajevo, 26 November 2004

Paddy Ashdown
High Representative

LAW ON AMENDMENT TO THE CRIMINAL CODE OF THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Criminal Code of the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of Bosnia and Herzegovina, Nos. 36/03, 37/03 and 21/04) shall be amended as follows:

Article 1

In Article 123, paragraph 1, the words «a release from criminal prosecution» and a coma shall be deleted. In paragraph 2, the words “prescribed under criminal legislation in the Federation” shall be replaced by the words “falling within the jurisdiction of the Federation”, and the words “in accordance with law” shall be replaced by the words “pursuant to a special law”.

Article 2

This Law shall enter into force forthwith and shall be published without delay.