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**DECISION OF THE
HIGH REPRESENTATIVE**

n. 50/00

In the exercise of the powers vested in me 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;

Recalling in addition paragraph 3 of Annex II (Rule of Law and Human Rights) to the last said Declaration, according to which the establishment of judicial institutions at the State level, which meet an established constitutional need to deal with criminal offences perpetrated by public officials of Bosnia and Herzegovina in the course of their duties, and with administrative and electoral matters, is a precondition for the establishment of the rule of law in Bosnia and Herzegovina;

Recalling finally the Declaration of the Peace Implementation Council which met in Brussels on 23 and 24 May 2000, and the Annex thereto, pursuant to which the adoption of a Law on a Court of Bosnia and Herzegovina was envisaged by September 2000;

Noting therefore that a Court of Bosnia and Herzegovina providing for judicial remedies in matters which lie within the competence of the State of Bosnia and Herzegovina under the Constitution of Bosnia and Herzegovina is a pre-condition for the establishment of the rule of law in the State of Bosnia and Herzegovina;

Considering that the guarantee of judicial remedies in fields including citizenship, foreign trade and investment, will ensure legal certainty, and that such certainty is urgently needed for the establishment of a functioning economy throughout Bosnia and Herzegovina, so that new perspectives for the citizens of Bosnia and Herzegovina for their future life in their home country may be opened up;

Stressing the need for judicial remedies to exist at the State level within Bosnia and Herzegovina which comply with guarantees enshrined under the European Convention on Human Rights which itself forms part of the Constitution of Bosnia and Herzegovina and enjoys priority over all other law in Bosnia and Herzegovina;

Considering that a working group, chaired by the Ministry for Civil Affairs and Communication, and composed of members of this Ministry, the Ministries of Justice of the Federation of Bosnia and Herzegovina and of the Republika Srpska, and of the Office of the High Representative, agreed on a draft text of a law on a Court of Bosnia and Herzegovina, on 5 October 2000;

Considering further that the said agreed text was itself based on a Council of Europe Venice Commission draft law on a State Court of Bosnia and Herzegovina, of 16 June 2000, adapted as appropriate by the said working group to the legal framework and requirements peculiar to Bosnia and Herzegovina whilst retaining in substance the said Venice Commission draft;

Regretting that notwithstanding the matters aforesaid, which should have enabled the Council of Ministers of Bosnia and Herzegovina and the Parliamentary Assembly of Bosnia and Herzegovina to have passed the said Law on a Court of Bosnia and Herzegovina through the regular procedure before the elections on 11 November 2000, the said Law has not been adopted;

Mindful both of the urgency and of the need to establish a Court of Bosnia and Herzegovina for all the reasons as aforesaid and in order to protect the interests of the citizens of Bosnia and Herzegovina.

Having considered, borne in mind and noted all the matters aforesaid, I hereby issue the following Decision which shall enter into force with immediate effect on an interim basis, until such time as the Parliamentary Assembly of Bosnia and Herzegovina adopts this Law in due form, without amendments and with no conditions attached.

DECISION

The Law establishing the Court of Bosnia and Herzegovina shall be as set out in the annex to this my Decision herein. This Law shall be published without delay in the Official Gazette of Bosnia and Herzegovina and in the Official Gazettes of the Federation of Bosnia and Herzegovina and of the Republika Srpska.

The Law on the Court of Bosnia and Herzegovina shall enter into force eight days after its publication in the Official Gazette of Bosnia and Herzegovina.

Sarajevo, 12 November 2000

Wolfgang Petritsch
High Representative

Law on Court of Bosnia and Herzegovina

GENERAL PART

Article 1 Establishment

1. In order to ensure the effective exercise of the competencies of the State of Bosnia and Herzegovina and the respect of human rights and the rule of law in the territory of this State, a Court of Bosnia and Herzegovina (hereinafter the "Court") is established. The Court shall have jurisdiction, in the circumstances and form laid down by this law.
2. The seat of the Court shall be at Sarajevo.

Article 2 Composition

1. The Court shall be composed of 15 judges.

Article 3
Requisites of eligibility

1. The judges of the Court shall be citizens of Bosnia and Herzegovina who are graduates of law and have passed the qualifying examination for judges and have at least ten years work experience in judicial bodies or attorneys' chambers.
2. Exceptionally, assistant professors or professors of the Faculties of Law in Bosnia and Herzegovina in the field of criminal law or criminal procedural law, civil law or civil procedural law, administrative law, commercial law or family law may be appointed as a judge of the Court.

Article 4
Election of Judges

1. The Parliamentary Assembly of Bosnia and Herzegovina shall elect the judges of the Court upon proposal by the Commission for the Nomination of Judges of the Court.

Article 5
Commission for the Nomination of Judges of the Court

1. The Commission for the Nomination of Judges of the Court consists of 6 citizens of Bosnia and Herzegovina. The Members are the President and the two Vice-Presidents of the Constitutional Court of Bosnia and Herzegovina, the President and the Vice-President of the Supreme Court of the Federation of Bosnia and Herzegovina, and the President of the Supreme Court of Republika Srpska.
2. At the constituting session a President of the Commission will be elected who shall preside at all further sessions.
3. All other issues shall be regulated by the Commission's Rules of Procedure. The Rules of Procedure shall be adopted at the first session of the Commission to be held 30 days from the time of coming into force of this Law.
4. The Commission may exercise further functions as established under the law of Bosnia and Herzegovina.

Article 6
Period of office

1. Judges thus appointed shall perform their duties until the age of 70 years except as provided in Article 7.

Article 7
Term of office

1. The term of office of a judge shall be terminated:
 - a) on the expiry of the term of office under Article 65;
 - b) upon voluntary resignation, as confirmed by the Plenum of the Court;
 - c) upon permanent inability to perform the duties of a judge due to his/her illness, disability, or weakness certified by a competent medical board and decided by the Plenum of the Court;
 - d) upon being removed from office by the Parliament upon proposal by the Plenum of the Court itself.

Article 8
Incompatibilities and immunities

1. The office of judge is incompatible with a public or private office. Candidates and Judges of the Court may not hold any duties in party organs, political associations or foundations connected to them, nor be involved in any political or party activities of a public nature. Teaching duties or scientific research of a juridical nature are exceptions to this rule.
2. Judges of the Court shall not be prosecuted, subjected to investigation, arrested detained or tried for the opinions expressed or for the decision taken in the exercise of powers associated with their duties.

Article 9 Language

1. The official languages of Bosnia and Herzegovina, Bosnian, Croat and Serb, and the official alphabets, Latin and Cyrillic, shall be used in the proceedings before the Court and in its communication with the parties. Persons participating in proceedings have the right to use any of these languages at any stage of the proceedings.
2. In criminal proceedings, the accused may use her/his own language and alphabet at any stage of the proceedings. If the proceedings are conducted in a language unknown to the accused, provision shall be made for interpretation by a qualified interpreter. The accused shall be informed of the right to interpretation and may waive that right if he/she knows the language in which proceedings are being conducted. A note shall be made in the record that the participant has been so informed, and his/her response shall also be noted.

Article 10 Rules of procedure

1. The Rules of procedure of the Court shall regulate procedures before all divisions of this Court to the extent not otherwise regulated in laws referred to in this law. They have to follow the minimum procedural guarantees as provided for by this law.
2. The Rules of procedure of the Court shall be published in the Official Gazette of Bosnia and Herzegovina.

Article 11 The Budget of the Court

1. The Court shall have its own budget, which shall be included in the budget of Bosnia and Herzegovina.
2. The President of the Court, assisted by the Chief Registrar, shall be responsible for preparing and implementing the budget of the Court.

Article 12 Attorneys

1. To appear or practice before the Court, an attorney must be licensed to practice by an authority in Bosnia and Herzegovina which has been recognized by the Court.
2. An attorney who does not fulfil the requirements under paragraph 1 may be specially admitted by the Court.
3. Procedures for special admission of attorneys and for recognition of licensing authorities for attorneys shall be established by the Court in its Rules of procedure.
4. The Court shall have authority to regulate in its Rules of procedure the qualification and practice of all attorneys before it, specifically including the authority to impose sanctions upon any attorney who appears before it, regardless of any other affiliation of the attorney.

5. Such sanctions may include suspension or disablement from practice before the Court, and such other sanctions as may be provided by law or prescribed in the Court's Rules of procedure.

JURISDICTION

Article 13 Criminal Jurisdiction

1. The Court shall have jurisdiction over crimes defined in the Laws of the State of Bosnia and Herzegovina, when provision is made in the said Laws that the Court has such jurisdiction.
2. The Court shall further be competent to
 - a) take a final and legally binding position on the implementation of State Laws and international treaties on request by any court of the Entities or any court of the Brcko district entrusted to implement State Law;
 - b) decide any issue relating to International and inter-Entity criminal law enforcement, including relations with Interpol and other international police institutions, such as decisions on the transfer of convicted persons, and on the extradition and surrender of persons, requested from any authority in the territory of Bosnia and Herzegovina, by foreign States or International Courts or Tribunals;
 - c) decide any conflict of jurisdiction between the courts of the Entities, and between the Courts of the Entities and the Courts of the Brcko district;
 - d) decide on the reopening of criminal proceedings for crimes defined in the Laws of the State of Bosnia and Herzegovina.

Article 14 Administrative Jurisdiction

1. The Court is competent to decide actions taken against final administrative acts or silence of administration of the institutions of Bosnia and Herzegovina and its bodies, Public Agencies, Public Corporations, institutions of the Brcko District and any other organisation as provided by State Law, acting in the exercise of a public function.
2. The Court shall have, in particular, jurisdiction over the following:
 - a) The assessment of the legality of individual and general enforceable administrative acts adopted under State law, performed in the exercise of public functions by the authorities listed in paragraph 1 of this Article, for which judicial review is not otherwise provided by law;
 - b) Property disputes between the State and the Entities, between the State and the Brcko district, between the Entities, between the Entities and the Brcko district and between the institutions of Bosnia and Herzegovina, which are interrelated with the exercise of public functions.
 - c) Conflict of jurisdiction between the courts from the Federation of Bosnia and Herzegovina and Republika Srpska, and between the courts of the Entities and the courts of the Brcko district.
 - d) Reopening of proceedings in disputes listed under items a) and b) of this Article.

Article 15 Appellate Jurisdiction

1. The Court shall decide the following:
 - a) appeals against a judgement or decision delivered by the Criminal Division of this Court, pursuant to Article 37 of this Law;

- b) appeals against a judgement or decision delivered by the Administrative Division of this Court, pursuant to Article 57 of this Law;
 - c) appeals against judgments of the Courts of last resort in the District of Brcko, according to Article 37 or 57 of the present Law;
 - d) extraordinary legal remedies against final judgments reached by the divisions of the Court and against final judgments reached by the courts of last resort in the District of Brcko, not including those that constitute the requests for reopening of proceedings.
2. The Court shall also have jurisdiction over:
- a) complaints concerning violations of the electoral code and the additional regulations and directives issued by the Permanent Election Commission;
 - b) any other case for which competence is provided by the laws of Bosnia and Herzegovina.

EXTRAORDINARY LEGAL REMEDIES

Article 16 Criminal Jurisdiction

1. Extraordinary legal remedies in criminal proceedings shall include:
- a) Request for reopening of proceedings
 - b) Request for protection of legality

Article 17 Administrative Jurisdiction

1. Extraordinary legal remedies in the administrative dispute proceedings shall include:
- a) Request for reopening of proceedings
 - b) Request for protection of legality
 - c) Request for review of court judgments

Article 18 Rules of procedure for extraordinary legal remedies

1. The rules of criminal procedure, civil procedure and administrative dispute procedure which are regulated under the applicable Criminal Codes, Civil Procedure Laws and Laws on Administrative Disputes being in force throughout Bosnia and Herzegovina, shall apply to the procedure upon extraordinary legal remedies referred to in Articles 16 and 17, until such time as appropriate State Laws of Bosnia and Herzegovina are enacted.

STRUCTURE OF THE COURT

Article 19 Structure of the Court

1. The Court shall have a Plenum and three Divisions.
2. The Divisions are:
- a) the Criminal Division;
 - b) the Administrative Division;
 - c) the Appellate Division (including the Electoral appeals competence).
3. The President of the Court in accordance with its Rules of procedure shall be competent to make general and special assignment of judges to any Division, Panel or case.

4. The Court's Divisions shall each have a President, serving for a term of 5 years, chosen by all judges of the Division.
5. Panels shall be chaired by the President of the Division or by the judge sitting in the panels appointed thereto by the President.

Article 20
The President of the Court

1. The Plenum of the Court elects the Court's President and two Vice-Presidents for a renewable term of five years.
2. The President and two Vice-Presidents are elected in a secret ballot by a majority of all judges of the Court, in a session at which the eldest judge presides.
3. If the President is temporarily incapacitated he or she shall be replaced by a Vice-President as designated by the President.

Article 21
Competencies of the President of the Court

1. The President of the Court is responsible for:
 - a) representing the Court in its external relations with state bodies and organizations;
 - b) the appointment of judges to the different divisions and panels;
 - c) the appointment of the replacing judge in case of disqualification of a judge;
 - d) setting the time table for sessions, handling cases and distributing the cases between the members of the Court and where necessary between the Divisions;
 - e) summoning and presiding at the Plenum of the Court;
 - f) the implementation of the budget of the Court;
 - g) performing general administration of the staff of the Court;
 - h) instituting disciplinary proceedings against judges, the Chief Registrar or a Deputy Registrar.
2. The President shall propose to the Plenum of the Court the working schedule elaborated at the beginning of each calendar year, providing for the allocation of incoming cases in advance and according to objective criteria.

Article 22
The Plenum of the Court

1. The Plenum of the Court shall consist of all members of the Court. The Plenum adopts its decision with a simple majority of all judges of the Court.
2. The Plenum of the Court:
 - a) Shall elect the President and the Vice-Presidents of the Court;
 - b) Shall draw up and adopt the rules of procedure of the Court;
 - c) Shall draw up and adopt the rules of procedure of the Criminal, Administrative and Appellate Divisions;
 - d) Shall elect the Chief Registrar and two Deputy Registrars;
 - e) Shall adopt the working schedule proposed by the president;
 - f) Shall confirm the procedures for disciplinary proceedings against judges, the Chief Registrar and Deputy Registrars;
 - g) Shall recommend the removal of a judge pursuant to article 7;
 - h) Shall adopt the draft budget of the Court.

Article 23
The Divisions of the Court

1. The Criminal and Administrative Division shall each consist of at least five judges. They shall sit in panels of three.
2. The Appellate Division shall consist of at least five judges. It shall sit in panels of five judges.
3. A judge from another Division may be asked to sit in the Appellate Division.

Article 24
Criminal Division

1. Individual judges may serve as investigating judges. In this capacity they shall carry out all steps necessary to conduct an investigative procedure as provided under the applicable criminal regulations. He/she is excluded from this case in all later stages.
2. The Criminal Division is chaired by its President elected by all judges of the Division; he or she appoints a rapporteur for each case pending.
3. Parties may not appeal against the decision accepting or rejecting the constitution of the panel, without prejudice to the right to raise objections to the decision when invoking the remedy of appeal against the final judgement.

Article 25
Administrative Division

1. The Administrative Division is chaired by a president elected by all judges of the Division.
2. Parties may not appeal against the decision accepting or rejecting the constitution of the panel, without prejudice to the right to raise objections to the decision when invoking the remedy of appeal against the final judgement.

Article 26
Appellate Division

1. The Appellate Division is chaired by its president elected by all judges of the Division.

Article 27
The Registry

2. The Court shall have a Common Registry, a Registry of the Criminal Division, a Registry of the Administrative Division and a Registry of the Appellate Division.
3. The Common Registry is managed by a Chief Registrar and two Deputy Registrars, under the supervision of the President of the Court and under the conditions specified in the rules of procedure of the Court.
4. The Common Registry shall consist of a Chief Registrar and two Deputy Registrars, elected by the Plenum of the Court.
5. The Common Registry is responsible for the administration and servicing of all Divisions.

Article 28
The Registrar of the Criminal Division

1. The Registrar of the Criminal Division, under the supervision of the Chief Registrar and the two Deputy

Registrars, assists the work of the judges.

2. The Registrar of the Criminal Division works on behalf of, and pursuant to, orders of the Criminal Division and a judge thereof.
3. He or she shall draw up the minutes of the hearings.

Article 29

The Registrar of the Administrative Division

1. The Registrar of the Administrative Division, under the supervision of the Chief Registrar and the two Deputy Registrars, assists the work of the judges.
2. The Registrar of the Administrative Division works on behalf of, and pursuant to, orders of the Administrative Division and a judge thereof.
3. The Registrar shall assist the Administrative Division in the enforcement of judgements of the Administrative Division..

Article 30

The Registrar of the Appellate Division

1. The Registrar of the Appellate Division, under the supervision of the Chief Registrar and the two Deputy Registrars, assists the work of the judges.
2. The Registrar of the Appellate Division works on behalf of, and pursuant to, orders of the Appellate Division and a judge thereof.

Article 31

Administrative staff

1. The Court shall have its own staff. The Court shall determine in respect of its staff the organizational structure in its Rules of Procedure.
2. The Court shall determine the duties and responsibilities, reasons for non-attendance, replacements, absences, and leave and holiday arrangements in respect of administrative staff.

CRIMINAL PROCEDURE

Article 32

General Principles

1. Until the adoption of a Criminal Procedure Code of Bosnia and Herzegovina, the criminal procedure before this Court shall follow the criminal procedure code which is in force at the location of the committal of the crime, unless otherwise provided for by this law.
2. Until the adoption of a Criminal Procedure Code of Bosnia and Herzegovina, the Court shall decide which criminal procedure code applies if the location of the committal of the crime involves the territories of two Entities and/or the Brcko district.
3. Procedural guarantees shall include the minimum requirements contained in Articles 33, 34 and 35 of this law.

Article 33

Presumption of innocence

1. A person shall be considered innocent of a crime until guilt has been established by a final verdict. The

freedom of the accused and his/her other rights may be restricted before a final verdict is rendered only in accordance with the law.

Article 34 **Rights of the suspect and the accused**

1. A person subjected to an investigation is not required to give any kind of statement or reply to any kind of question asked by the authorized official, except his/her own identity data, and the authorized law enforcement agency official will inform him/her of this right.
2. The suspect, who is subject to substantiated suspicion of having perpetrated a crime, has the right to take defence counsel and have his/her defence counsel present at his/her questioning conducted by the authorised official. If the suspect is deprived of liberty, he/she has the right to request the appointment of his/her defence counsel, if he/she is not able to bear the costs of defence according to his/her financial circumstances. The suspect has the right to select his/her own defence counsel from among professional attorneys and to present his/her counsel to the Court.
3. Any authorised law enforcement agency official has the duty to instruct the suspect of the rights set out in paragraphs 2 and 3 of this article. As from the very first examination, the accused must be informed about the charge against him/her and the grounds for the charge. The accused must be given without delay an opportunity to state his/her position concerning all facts and evidence against him/her and to present all facts and evidence in his/her favour.
4. It is forbidden to compel a confession or any other statement from a suspect, an accused, or other person participating in proceedings. The Court may not base its decision on evidence obtained by violating human rights and freedoms prescribed in the Constitution or international treaties, nor on evidence obtained in breach of this law.
5. There shall be no judgement in absentia.
6. The provisions in this law do not in any way whatsoever restrict any rights guaranteed to the accused by the Constitution of Bosnia and Herzegovina and international treaties appended to it and generally accepted principles of public international law.

Article 35 **Ne bis in idem**

1. No person shall be tried before a court in the territory of Bosnia and Herzegovina for any offence, for which he or she has already been tried by the Court of Bosnia and Herzegovina.

Article 36 **Defence Counsel**

1. A suspect or accused is entitled to be assisted effectively by defence counsel throughout the course of criminal proceedings.
2. The same defence counsel may act for more than one person but not if the same criminal proceedings are being conducted against them all. An accused person may have more than one defence counsel, and it shall be considered that the defence is properly provided for if one of the defence counsel is participating in the proceedings.
3. Before the first examination a suspect or accused must be instructed that she/he has the right to engage defence counsel and that his/her defence counsel may attend his/her examination.
4. If the suspect, or the accused, fails to engage a defence counsel on his/her own, defence counsel may also be engaged ex officio or by his/her legal representative, spouse, extramarital partner, blood relative in a direct line, adopted parent, adopted child, brother, sister or foster parent.

5. If the suspect, or the accused is mute, deaf or incapable of effectively defending him/herself, or if the proceedings are being conducted for a crime for which the penalty of extended imprisonment may be pronounced, a suspect or accused must have defence counsel from the very first examination.
6. When a crime is alleged for which a prison sentence of 10 years or more may be pronounced, the accused must have defence counsel at least when the indictment is delivered. If the accused does not have sufficient means to pay for legal assistance, he or she shall be given it free when the interests of justice so require.
7. Only an attorney authorised to practice before the Court pursuant to Article 12 may be engaged as defence counsel.

Article 37
The Right to File an Appeal

1. Appeals of persons convicted by the Criminal Division, or of the Prosecutor, can be lodged with the Appellate Division on the following grounds:
 - a) Substantial violation of criminal procedure regulations;
 - b) an error as to a question of law invalidating the decision;
 - c) a substantial error of fact which has occasioned a miscarriage of justice;
 - d) an error as to a question of law or fact invalidating the penalty or sentence.
2. The Prosecutor may file an appeal either against or in favor of the accused.
3. An appeal against a decision may be filed within 15 days from the date of delivery of the decision to the party.
4. The accused may waive the right of appeal only after the decision has been delivered to him/her. The prosecutor may waive the right of appeal against the interests of the accused from the moment when the decision is announced to the end of the period allowed for filing an appeal against the interests of the accused, and may withdraw an appeal already filed at any stage before a decision is rendered by the Appellate Division.
5. The waiver and withdrawal of an appeal cannot be revoked.

Article 38
Decisions on appeals

1. The Presiding judge of the Appellate Division shall issue a decision rejecting an appeal which is lodged out of time.
2. The Appellate Division may confirm, reverse or revise decisions delivered by the Criminal Division, according to the applicable procedural and legislative provisions.

Article 39
Disqualification

1. A judge may not perform his/her judicial duties in the following cases:
 - a) if she/he has been adversely affected by the crime;
 - b) if the suspect or accused, his/her defence counsel, the injured party, their legal representative or authorised agent, is his/her spouse or extramarital partner or direct blood relative at whatever degree and in a lateral line up to the fourth degree, or a relative by marriage up to the second degree;
 - c) if in the same criminal case he or she has performed actions as defence counsel, legal representative or authorised agent of the injured party, or has been examined as a witness or expert.
2. As soon as a judge learns that any of the grounds for disqualification exist, she/he must interrupt all work

on that case and inform the president of the court, who shall appoint his/her replacement. If it is a question of disqualification of the president of the court, he/she shall appoint his/her own replacement.

3. If a judge feels that there are other circumstances which justify his/her disqualification, he /she shall so inform the president of the court.

Article 40 **Costs**

1. The costs of criminal proceedings are the expenses incurred in connection with criminal proceedings from the time they are instituted until they are completed, and expenditure for investigative actions.
2. In every verdict and decision terminating criminal proceedings the Court decides as to who will pay the costs of proceedings and as to the amount of those costs.
3. When the court finds the accused guilty, it may declare in the judgement that he or she must reimburse all or a portion of the costs of criminal proceedings. Juvenile offenders are not required to reimburse any costs of criminal proceedings.
4. Costs of interpretation shall not be collected from individuals who, under the provisions of this law, are required to reimburse the costs of criminal proceedings.
5. When criminal proceedings are dismissed, or when a judgement is rendered which acquits the accused or rejects the charge, the decision or verdict shall pronounce that the costs of criminal proceedings and necessary expenditure of the accused and necessary expenditure and remuneration of defence counsel shall be borne by the State of Bosnia and Herzegovina.
6. A person who has deliberately filed a false charge shall pay the costs of criminal proceedings caused by the false charge.

Article 41 **Rehabilitation - Compensation**

1. A person who has been unjustifiably convicted of a crime or deprived of liberty shall be entitled to rehabilitation, compensation for damages at the expense of the State of Bosnia and Herzegovina, and other rights as set forth by law.

Article 42 **Reopening of the proceedings**

1. The reopening of the proceedings can be requested by a person convicted of a criminal offence when substantial facts are made known of which there could have been no knowledge at the time of the conviction.

ADMINISTRATIVE PROCEDURE

Article 43 **Conflicts of jurisdiction and competence**

1. In cases of concurrent administrative jurisdiction between the Court of Bosnia and Herzegovina and any other Court in Bosnia and Herzegovina of the Entities and the Brcko District, primacy is given to the Court of Bosnia and Herzegovina.
2. The Court may in cases under paragraph 1 remove proceedings from and transfer the proceedings to any other court in the territory of Bosnia and Herzegovina. This decision is final and binding.

Article 44
General Legal Capacity

1. Only natural and legal persons having legal capacity to exercise their civil rights are entitled to challenge the acts and decisions listed in Article 14.
2. Natural persons, not having legal capacity or not having reached the age of majority, shall be represented by their legal representative.

Article 45
Locus standi to be claimant

1. The acts, decisions and regulations listed in Article 14 may be challenged by the persons to whom they are addressed and by those who are directly and individually affected by them.
2. The regulations having general application may be challenged by natural or legal persons directly and individually affected by them.
3. Compensation for damage resulting from the performance of public activities by the Administration or its Agencies and agents exercising public functions may be claimed by those who have suffered loss or adverse consequences as a result.
4. Groups representing collective interests (associations, foundations, corporations, trade unions) may challenge acts or decisions affecting either their own rights or the collective interest that they represent.
5. Civil servants may challenge acts and decisions relating to conditions of employment which affect them directly or indirectly.
6. In the event of the death of the claimant, his/her heirs may replace him/her in the legal proceedings, or may issue fresh proceedings in defence of their legitimate interests.

Article 46
Locus standi to be defendant

1. The defendant party in the proceedings before the Administrative Division is the State of Bosnia and Herzegovina. It is represented in the proceedings before the Court by the State Attorney of Bosnia and Herzegovina, or any other qualified representative appointed by the Council of Ministers.

Article 47
Interventions

1. The Court may allow persons having a direct and individual interest in the act, decision, or regulation at issue, or the failure to act on the part of the Administration or its Agencies, to join in the proceedings as subsidiary parties, supporting the applicant or the State of Bosnia and Herzegovina.

Article 48
Representation and Counsel

1. The applicant may be represented and defended during the proceedings by a lawyer of his/her choice.
2. Only an attorney authorized to practice before the Court pursuant to Article 12 may be engaged as counsel.

Article 49
Effects of the action

1. Actions brought before the Administrative division shall not have suspensive effect unless the Court

decides otherwise.

Article 50
Scope of the action

1. The applicants will be able to claim:
 - a) A declaration that the act, decision or regulation challenged is contrary to law and for its invalidation;
 - b) Where appropriate, the recognition of a specific legal status and the right to be restored to the situation the claimant occupied prior to the execution of the act, decision or regulation challenged;
 - c) A finding of liability as against the Administration, including payment of compensation for consequent damage;
 - d) Where there has been an omission to act by the Administration or the Public Agencies, an order to comply with their statutory obligations.

Article 51
Action

1. The action shall be lodged in writing with a brief explanation and duly signed.
2. The action must be lodged within two months from the day following the day the applicant is notified, or received the act or the decision complained of, or from the day of the publication of the regulation challenged.

Article 52
Joinder of Parties

1. At the discretion of the Court more than one action can be joined in one set of proceedings when they involved common issues of law and of fact, in particular:
 - a) when they concern the same act, decision or regulation;
 - b) when they concern several acts, decisions or regulations, one being the implementation, confirmation or repetition of the other.
2. The Court shall be entitled to take a decision under paragraph 1 at any procedural stage.
3. The claimant shall be entitled to challenge various acts, decisions or regulations in a single action. An action may be filed by more than one claimant in respect of the same act, decision or regulation.

Article 53
Inquiries / Evidence

1. The Court shall consider the full administrative record of the case, which the State Attorney, or any other authorized State representative, shall assemble and present.
2. The Court shall order the taking of evidence to the extent that it considers it necessary. The following areas of inquiry may be investigated:
 - a) witnesses;
 - b) experts;
 - c) documentation, including the administrative record to be produced by the State attorney, or any other authorized State representative.

Article 54
Judgement orders

1. The judgement may contain one of the following declarations:
 - a) Inadmissibility of the action for the reasons indicated in Article 51;
 - b) A complete or partial allowance of the action or its rejection;
 - c) In case of allowance, the nullification of the act, decision or regulation challenged on the ground that it is contrary to Law. The judgement may also order the claimant's restoration to the situation he /she occupied prior to the execution of the act, decision or regulation in question;
 - d) Award of damages in compensation. In such cases it shall also fix the level of damages.
2. The judgement shall include an order for the payment of costs to the claimant or the defendant in accordance with Article 56.
3. The applicant shall be informed of the decision, which is final and binding, within the time limits set out in the Court's rules of procedure.

Article 55
Effects and publication of the judgement

1. A judgement declaring the inadmissibility or refusal of the action shall only have effect between the parties.
2. A judgement on the merits of the action shall apply to all persons affected by the act, decision or regulation challenged.
3. The judgement shall be notified to the parties and shall be published in the Official Gazette of Bosnia and Herzegovina.

Article 56
Costs

1. The costs of administrative proceedings are the expenses incurred in connection with administrative proceedings from the time they are instituted until they are completed.
2. In every decision terminating administrative proceeding the Court decides as to who will pay the costs of proceeding and as to the amount of those costs.
3. The judgment of the Court shall include an order to pay Court costs against any party who initiated or maintained the proceeding in bad faith or through recklessness.

Article 57
The right to file an appeal

1. The parties may lodge an appeal against a judgement of the Administrative Division before the Appeals Division within 15 days from the notification of judgement, with a view to revising the legality of the judgement at first instance.
2. Lodging an appeal will suspend the effect of a judgement of the Administrative Division, unless specific legislation stipulates to the contrary. The Administrative Division is entitled to adopt the necessary preventive measures, at the request of the party concerned, to ensure that the judgement will be fully complied with, if it is confirmed by the Appeal Judgement.
3. The Administrative Division may also order the provisional execution of the judgement, if this is possible, at the request of the party concerned, if suspending the effects of the judgement may cause that party damage in respect of which reparation is difficult or impossible. The party concerned shall be required to provide an adequate security in case the Appeals Division should subsequently overturn the judgement.

Article 58
The Decision of the Appellate Division

1. The Appellate Division may uphold or overturn the judgement reached in the Administrative Division. If the judgement is overturned, the Appellate Division shall also determine the original application.
2. The decision of the Appellate Division shall be final and binding on all the parties, according to the provisions of Article 54.

Article 59
Execution of judgement

1. The Administrative Division, has jurisdiction to enforce the judgement at first instance, under Article 54 of this law, or the decision on appeal, under Article 58 of this law.
2. The parties must comply with the judgement within two months of the Decision being received, or within such other period as may be determined by the Court.

Article 60
Reopening of the proceedings

1. The reopening of the proceedings can be requested by a party to the proceedings when substantial facts are made known of which there could be no knowledge at the time of the judgment.

APPELLATE DIVISION

Article 61
The Appellate Division

1. The Appellate Division shall hear appeals against judgements of the Criminal Division, pursuant to Article 37 of this Law and against judgements of the Administrative Division, pursuant to Article 57 of this Law.
2. The Appellate Division shall hear complaints in electoral matters pursuant to Article 15(2)a).
3. The Appellate Division shall hear appeals from the courts of last resort in the District of Brcko.

Article 62
Procedure in electoral appeals

1. An appeal may be lodged before the Appeals Division against a decision of any authority in Bosnia and Herzegovina, its entities, and against of courts of last resort in the District of Brcko, within the meaning of Article 15 paragraph 2 a) and which is not subject to another ordinary appeal.
2. A complaint may be lodged by individuals, political parties and political coalitions. The Appeals Division will not act on anonymous complaints. All complaints shall be made public unless, in exceptional circumstances, determined otherwise in the detailed rules of procedure.
3. The application shall be lodged in writing with a brief explanation and duly signed within 5 days from the day of the decision of the last instance concerned.
4. The Appellate Division shall decide on the appeal within 30 days.

Article 63
Representation and counsel

1. The applicant may be represented and defended during the hearings by a lawyer of his/her choice.

2. Only an attorney authorised to practice before the Court pursuant to Article 12 may be engaged as counsel.

Article 64
Judgement orders

1. The decisions of the Appellate Division are final and binding.

FINAL PART

Article 65
Transitional provisions

1. If six months after the entry into force of the present law, judges are not elected pursuant to Article 4, the High Representative may appoint them for a maximum period of five years.

Article 66
Publishing of the Law

1. This Law shall be published without delay in the Official Gazette of Bosnia and Herzegovina, and in the Official Gazettes of the Federation of Bosnia and Herzegovina, and of the Republika Srpska.

Article 67
Entry into force of the present Law

1. This law shall enter into force eight days after the date of its publication in the Official Gazette of Bosnia and Herzegovina.

Sarajevo, 20 November 2000

Wolfgang Petritsch
High Representative