



**AGREEMENT BETWEEN THE HIGH REPRESENTATIVE FOR BOSNIA AND
HERZEGOVINA AND BOSNIA AND HERZEGOVINA ON THE ESTABLISHMENT
OF THE REGISTRY FOR SECTION I FOR WAR CRIMES AND SECTION II FOR
ORGANISED CRIME, ECONOMIC CRIME AND CORRUPTION OF THE
CRIMINAL AND APPELLATE DIVISIONS OF THE COURT OF BOSNIA AND
HERZEGOVINA AND THE SPECIAL DEPARTMENT FOR WAR CRIMES AND
THE SPECIAL DEPARTMENT FOR ORGANISED CRIME, ECONOMIC CRIME
AND CORRUPTION OF THE PROSECUTOR'S OFFICE OF BOSNIA AND
HERCEGOVINA**

Noting that the establishment of Section I for war crimes and Section II for organized crime, economic crime and corruption within the Court of BiH as well as the establishment of a Department for war crimes and a Department for organized crime, economic crime and corruption within the Prosecutor's Office of BiH is an integral part of the establishment of the rule of law principle in Bosnia and Herzegovina;

Noting that, with regard to Bosnia and Herzegovina, the United Nations Security Council recognized in Resolution 1503, an "essential prerequisite to achieving the objectives of the ICTY Completion Strategy is the expeditious establishment under the auspices of the High Representative and the early functioning of a special chamber within the State Court of Bosnia and Herzegovina and the subsequent referral by the International Tribunal of cases of lower- or intermediate-rank accused";

Recognizing the importance of cooperation between Bosnia and Herzegovina and the International Community in legal, judicial and human rights related matters;

Reaffirming their commitment to hold accountable the perpetrators of serious violations of international humanitarian and human rights law and the criminal law in Bosnia and Herzegovina;

Determined to provide due process during the investigation, prosecution and trial of individuals within their respective jurisdictions;

Noting 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 Civilian Implementation of the Peace Settlement;

Noting the responsibility of the Presidency under Article V 3 a of the Constitution of Bosnia and Herzegovina to conduct the foreign policy of Bosnia and Herzegovina and the responsibility of the Presidency under article V 3 d of the Constitution of Bosnia and Herzegovina to negotiate, denounce, and, with the consent of the Parliamentary Assembly, ratify treaties of Bosnia and Herzegovina;

The Presidency of Bosnia and Herzegovina and the High Representative for Bosnia and Herzegovina (hereinafter "the Parties") have concluded the following:

AGREEMENT BETWEEN THE HIGH REPRESENTATIVE FOR BOSNIA AND HERZEGOVINA AND BOSNIA AND HERZEGOVINA ON THE ESTABLISHMENT OF THE REGISTRY FOR SECTION I FOR WAR CRIMES AND SECTION II FOR ORGANISED CRIME, ECONOMIC CRIME AND CORRUPTION OF THE CRIMINAL AND APPELLATE DIVISIONS OF THE COURT OF BOSNIA AND HERZEGOVINA AND THE SPECIAL DEPARTMENT FOR WAR CRIMES AND THE SPECIAL DEPARTMENT FOR ORGANISED CRIME, ECONOMIC CRIME AND CORRUPTION OF THE PROSECUTOR'S OFFICE OF BOSNIA AND HERZEGOVINA

Establishment of the Registry

Article 1

1. There is hereby established an independent Registry (hereinafter "the Registry") responsible for the administration and provision of support services to Section I for War Crimes and Section II for Organized Crime, Economic Crime and Corruption of the Criminal and Appellate Divisions of the Court of Bosnia and Herzegovina (hereinafter "Section I and Section II of the Criminal and Appellate Divisions") and for the provision of support services to the Special Department for War Crimes and the Special Department for Organized Crime, Economic Crime and Corruption of the Prosecutor's Office of Bosnia and Herzegovina (hereinafter "the Special Departments"), pursuant to the Law on the Court of Bosnia and Herzegovina and the Law on the Prosecutor's Office of Bosnia and Herzegovina.
2. The Registry shall be established for a five (5) year period unless otherwise provided pursuant article 3 paragraph 2, item 6 of this Agreement.
3. The Registry shall consist of a Registrar and such other staff as may be required for the efficient operation of the Registry. The Registry shall be autonomous with regard to the execution of its functions under this Agreement.

Duties and responsibilities of the Registry

Article 2

1. The Registry shall administer the recruitment and selection process of international judges to be appointed to Section I and Section II of the Criminal

and Appellate Divisions (hereinafter “international judges”) and international prosecutors to be appointed to the Special Departments (hereinafter “international prosecutors”) and submit qualified candidates to the High Representative for appointment. In the event of termination of the High Representative’s mandate, qualified candidates shall be appointed by the President of the High Judicial and Prosecutorial Council for Bosnia and Herzegovina

2. The Registry shall be responsible for the administration and provision of support services to Section I and Section II of the Criminal and Appellate Divisions and for the provision of support services to the Special Departments. Support Services may include, *inter alia*, organization and coordination activities related to detention, defence, and witness protection and support.
3. The Registry shall be responsible for the recruitment and administration of national and international support staff to assist the work of the international judges , international prosecutors and to support coordination activities of the Registry.
4. The Registry shall not interfere with the independent exercise of the judges of the Court of Bosnia and Herzegovina and prosecutors of the Prosecutor’s Office of Bosnia and Herzegovina in the fulfillment of their duties under law.

The Registrar

Article 3

1. The High Representative shall appoint a Registrar for a non-renewable term of five years.
2. The Registrar shall exercise the authority of the Registry and shall be responsible *inter alia* for the following:
 - 2.1 Management and administration of the financial and staff resources of Section I and Section II of the Criminal and Appellate Divisions and the Special Departments including the provision of financial and narrative reports to international donors;
 - 2.2 Conclusion of grant agreements and other agreements with the authorities of Bosnia and Herzegovina, international governments, international and non-governmental organizations;
 - 2.3 Conclusion of agreements with any authority in Bosnia and Herzegovina on the provision of support services to the Registry, to Section I and Section II of the Criminal and Appellate Divisions and to the Special Departments;

- 2.4 Appointment, recruitment and administration of such other staff as may be required for the efficient functioning of the Registry;
- 2.5 Provision of an annual report on the work of the Registry with details of the work of Section I and Section II of the Criminal and Appellate Divisions and the Special Departments to be presented to the High Representative, national authorities and international donors.
- 2.6 On or before the expiration of a three (3) year period from the commencement of this agreement, a transitional plan shall be presented by the Registrar to the parties for their consideration and approval.
- 2.7 An Oversight Committee will be created, composed of national and international experts in the field of criminal justice that will continually evaluate and document the functioning of Section I and Section II of the Criminal and Appellate Divisions of the Court of BiH, the Special Departments of the Prosecutor's Office of BiH and the Registry. The Committee will advise on all aspects of the Project and the functioning of Section I and Section II of the Criminal and Appellate Divisions of the Court of BiH, the Special Departments of the Prosecutor's Office of BiH, and the Registry with a view to their transition into a national institution in the shortest period possible.
The duties and responsibilities of the Oversight Committee include, but are not limited to, the following:

- It reports to all relevant national authorities and international organizations about the progress of the work of Section I and Section II of the Criminal and Appellate Divisions, the Special Departments and the Registry;
- It advises donor countries on the implementation of the war crimes chamber project and the auditing of their funds;
- It liaises with external international auditors to comply with international obligations and donor commitments;
- It liaises with national and international NGOs to focus discussion on policy decisions as they arise;
- It analyses and assesses whether the different constituent elements of the project (i.e. Section I and Section II of the Criminal and Appellate Divisions, the Special Departments, Witness Protection and Victim Support, Defence and the Registry itself) are functioning independently and impartially, with sufficient resources and achieving the aims and objectives of their mandate.

Facilities, Staff and Expenses

Article 4

1. The Registry shall have appropriate facilities in the same premises as the Court of Bosnia and Herzegovina and the Prosecutor's Office of Bosnia and Herzegovina.
2. The expenses of the Registry and other support services provided by the Registry shall be borne by donations and voluntary contributions from any donor and by allocation of funds from the budget of the institutions of Bosnia and Herzegovina.
3. The Registry shall enjoy, under the laws of Bosnia and Herzegovina, such legal capacity as may be necessary for the exercise of its functions, including the capacity to contract and to acquire and dispose of real and movable property.
4. Staff of the Registry shall not be held criminally or civilly liable for any act carried out within the scope of their duties.
5. Staff of the Registry and their families, who are not citizens of Bosnia and Herzegovina, shall be accorded the same privileges and immunities as are enjoyed by diplomatic agents and their families under the Vienna Convention on Diplomatic Relations.
6. Other staff members employed by the Registry and their families are accorded the same privileges and immunities as are enjoyed by members of the administrative and technical staff and their families under the Vienna Convention.
7. The Registry and its premises, archives, and other property shall be accorded the same privileges and immunities, including inviolability as are enjoyed by a diplomatic mission and its premises, archives, and other property under the Vienna Convention on Diplomatic Relations.
8. Staff recruited by the Registry in accordance with Article 2 (3) of this Agreement shall have the same privileges and immunities as the staff of the Registry and other staff members employed within the Registry.

Rules and Regulations

Article 5

The Registry shall promulgate such rules and regulations, consistent with this Agreement, as may be necessary to carry out its functions.

Cooperation

Article 6

All authorities in Bosnia and Herzegovina shall provide such cooperation and assistance as may be necessary for the operation of the Registry. The authorities shall comply without undue delay with any request for assistance by the Registry.

Settlement of Disputes

Article 7

Any disputes between the Parties concerning the interpretation or application of this Agreement shall be settled by negotiation, or by any other mutually agreed-upon mode of settlement.

Entry into Force

Article 8

This Agreement shall enter into force on the day after the Presidency of Bosnia and Herzegovina notifies the High Representative in writing that the legal requirements for entry into force have been complied with.

Amendment

Article 9

This Agreement may be amended by mutual consent and after consultation with the Registrar, in writing, at any time at the request of either party. Any amendment shall enter into force on the day after both parties have notified each other in writing that the legal requirements for entry into force have been complied with.

Final Provision

Article 10

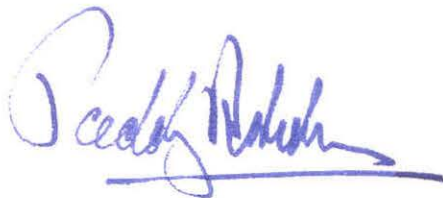
Unless otherwise stipulated, in the event of termination of the mandate of the High Representative, any approval or agreement stipulated by this Agreement shall be deemed to have been delegated to his legal successor.

In Witness whereof, the High Representative for Bosnia and Herzegovina and the Presidency of Bosnia and Herzegovina have signed this Agreement.

Signed in Sarajevo on 1 Dec. 2004 in 2 (two) originals in the English, Bosnian, Croatian, and Serbian.

High Representative
of Bosnia and Herzegovina

Paddy Ashdown



Chairman of the Presidency
of Bosnia and Herzegovina

Sulejman Tihić

