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Strasbourg, 21 June 1996

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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

**INFORMATION FROM THE FEDERAL MINISTRY OF JUSTICE OF
THE FEDERATION OF BOSNIA AND HERZEGOVINA**

*(upon request of the Venice Commission Working Group
on Human Rights protection mechanisms)*

Bosnia and Herzegovina
Federation of Bosnia and Herzegovina
Federal Ministry of Justice
Sarajevo
No: 09-303/96
Sarajevo 7 June, 1996

Council of Europe
The Venice Commission
Strasbourg

Re: Information, to submit

We have the honour to, upon the request of the Venice Commission Working Group on the human rights protection mechanisms in Bosnia and Herzegovina of 23 May 1996, within time stipulated at the last session of the Commission in Venice, submit to you the following information:

a) the information on the activities of the Constitutional Court especially concerning human rights case-law.

From the Constitutional Court of the Federation of Bosnia and Herzegovina we have received the information which says that according to the Constitution of the Federation of Bosnia and Herzegovina, the Constitutional Court in his work is obliged to exclusively observe the provisions of the Constitution of the Federation of Bosnia and Herzegovina, the laws on Proceedings before the Constitutional Court, the Resolution on Organization and the Rules of Procedure of the Constitutional Court. In none of these regulations there is a possibility for the Constitutional Court to use human rights case-law.

Since the Constitutional Court was constituted in January, 1996 and so far it has not received a case by the nominators authorized by the Constitution, the Constitutional Court of the Federation cannot send you the report on its activity in the matter you are interested in.

b) the information on the activities of the Ombudsmen of the Federation (especially concerning violations of human rights) and their relations with the Human Rights Commission .

As we, while preparing the answer to your request, received the information on the activities of the ombudsmen, the content of which was quite long, we submit to you the information of the ombudsmen enclosed to this information .

c) the information of the Supreme Court of the human rights case-law.

We inform you that so far the Supreme Court of the Federation has not been constituted, although the Law on the Supreme Court of the Federation of Bosnia and Herzegovina has been adopted. As the Supreme Court of the Federation has not been constituted. There is no possibility for us to submit to you the information of the Supreme Court on human rights case-law.

d) the information on competence division between the Constitutional Court and the Supreme Court.

According on the provisions of the Constitution of the Federation of Bosnia and Herzegovina the Constitutional Court makes decisions on the constitutional issues which the supreme Court presents to it and which appear in the course of a proceeding before that Court. Besides, when the Supreme Court consider a law not to be in accordance with the Constitution of the Federation, it will suspend the proceeding and present the case to the Constitutional Court. The decisions of the Constitutional Court are final and binding.

As the Supreme Court, however, has not been constituted yet, and the Constitutional Court so far has not received a case by the nominators authorized by the Constitution, we cannot submit to you the information from practice on the competence division between the Constitutional Court and the Supreme Court.

Submitting to you the above mentioned information regarding the Constitution of the Federation of Bosnia and Herzegovina, we give you our best regards and wish you a lot of success in your future work.

MINISTER

Mato Tadic

Encl: The Information on the activity of the OMBUDSMEN of the Federation

BOSNA I HERCEGOVINA
FEDERACIJA BOSNE I HERCEGOVINE
FEDERALNO MINISTARSTVO PRAVDE
SARAJEVO
Broj: 01-303/96
Sarajevo, 07.06.1996. godine

VIJEĆE EUROPE
VENECIJANSKA KOMISIJA
STRAZBURG

PREDMET: Informacije, dostavljaju se

Imamo čast da vam, po zahtjevu Radne grupe Venecijanske komisije o mehanizmima zaštite ljudskih prava u Bosni i Hercegovini od 23.05.1996. godine, u roku koji je dogovoren na prošlom sastanku Komisije u Veneciji, dostavimo Informacije kako slijedi:

a) Informacija o aktivnostima Ustavnog suda (s naročitim osvrtom na običajno pravo u oblasti ljudskih prava)

Od Ustavnog suda Federacije Bosne i Hercegovine primili smo informaciju u kojoj se navodi da je prema Ustavu Federacije Bosne i Hercegovine, Ustavni sud Federacije u svome radu dužan da se pridržava isključivo odredaba Ustava Federacije Bosne i Hercegovine, Zakona o postupku pred Ustavnim sudom, Odluke o organizaciji i Poslovnika Ustavnog suda. Ni u jednom od navedenih propisa nije data mogućnost da se Ustavni sud koristi običajnim pravom oblasti ljudskih prava.

S obzirom da je Ustavni sud Federacije konstituiran u januaru 1996. godine i da do danas nije primio ni jedan predmet od Ustavom ovlašćenih predlagača, Ustavni sud Federacije nije u mogućnosti poslati van izvještaj o njegovoj aktivnosti u materiji koja vas interesuje.

b) Informacija o aktivnostima ombudsmena Federacije (s naročitim osvrtom na povrede ljudskih prava) i o njihovim odnosima sa Komisijom za ljudska prava

Kako smo, pripremajući vam odgovor na vaš zahtjev, od institucije ombudsmena Federacije Bosne i Hercegovine Sarajevo primili informaciju o aktivnostima ombudsmena koja je dužeg sadržaja, to vam informaciju ombudsmena dostavljamo u prilogu ove informacije.

c) Informacija Vrhovnog suda o običajnom pravu u oblasti ljudskih prava

Obavještavamo vas da do sada nije konstituiran Vrhovni sud Federacije Bosne i Hercegovine, iako je usvojen Zakon o Vrhovnom sudu Federacije BiH.

Kako Vrhovni sud Federacije nije konstituiran, nema mogućnosti da vam dostavimo informaciju Vrhovnog suda o običajnom pravu u oblasti ljudskih prava.

d) Informacija o raspodjeli nadležnosti izmedju Ustavnog suda i Vrhovnog suda

Prema odredbama Ustava Federacije Bosne i Hercegovine Ustavni sud odlučuje o ustavnim pitanjima koja mu predloži Vrhovni sud a koja se pojave u toku postupka pred tim sudom. Osim toga, kad Vrhovni sud smatra da odgovarajući zakon nije u skladu sa Ustavom Federacije obustavit će postupak i predložiti predmet Ustavnom sudu. Odluke Ustavnog suda konačne su i obavezujuće.

Medjutim, kako Vrhovni sud Federacije još nije konstituiran, a Ustavni sud Federacije do danas nije primio ni jedan predmet od Ustavom ovlašćenih predlagača, nismo u mogućnosti da vam dostavimo informaciju iz prakse o raspodjeli nadležnosti izmedju Ustavnog suda i Vrhovnog suda.

Dostavljajući vam gore navedene informacije glede Ustava Federacije Bosne i Hercegovine, želimo da vas najsrdahnije pozdravimo sa željom za vaše uspješne aktivnosti u narednom periodu.

Prilog: Informacija o aktivnosti ombudsmena
Federacije



MINISTAR
Mata Jarić