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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**

**PRELIMINARY REPLIES  
TO THE QUESTIONS RAISED  
IN THE LETTER OF  
THE HIGH REPRESENTATIVE  
OF BOSNIA AND HERZEGOVINA  
OF 22 MAY 1998**

**by Mr Jan Helgesen (Norway)**

I have had access to the reports by Messrs Scholsem and Steinberger. I share their conclusion, as well as the arguments presented in the reports. I have very little to add:

- As for the first question, on electoral laws for the respective levels, I can fully share the view that this is covered directly by Annex III, Art. 5. I would like to add, however, that if the entities want to do so, they may, according to the Constitution Art. III, 5.a, create "additional institutions" to carry out activities and responsibilities they might want to agree upon. The Annex III, Art. 5 commitment is - exactly - such an activity which they already have agreed upon. In conclusion, the same result can be reached in two different ways.
- As for the second question, I might also want to focus on Art. III, 5 a, as a point of departure. Certainly, as agreement to establish such an administrative court is a sufficient legal basis. There is, however, one limit. The competence of a new court may not violate other parts of the Constitution. I am referring in particular to the competence of the Constitutional Court (Art. VI).
- As for question three and four, I again share the views of my two colleagues. "Differentiation" does not automatically mean "discrimination". I would have preferred, however, to be able to go deeper into this rather complicated area.