

Decision on the appointment of the Transfer Agent and the Expert Team for the establishment of public service broadcasting

In the exercise of the powers vested in me by Article 5 of Annex 10 to the General Agreement for Peace in Bosnia and Herzegovina, according to which the High Representative is the final authority in theater regarding interpretation of his mandate; and considering in particular Art. II.1.(d) of the same Agreement, in terms of which the High Representative shall have the power to "*facilitate, as the High Representative judges necessary, the resolution of any difficulties arising in connection with civilian implementation*"; recalling the interpretation of such a power given in paragraph XI.2 of the Conclusions of the Peace Implementation Conference held in Bonn the 10 December 1997, particularly sub-paragraph (b) thereof, in terms of which the High Representative is entitled to make binding decisions, as he judges necessary, on the adoption of measures aiming at ensuring implementation of the Peace Agreement throughout Bosnia and Herzegovina, including "*interim measures to take effect when parties are unable to reach agreement*";

Considering that on 11 June 1998 the Presidency of BiH adopted a Memorandum of Understanding on the Restructuring of RTV BiH and that, due to the inability of the parties to agree on the implementation of such Memorandum, the High Representative enacted on 30 July 1999 a Decision on Restructuring the Public Broadcasting System in Bosnia and Herzegovina [O.G. of BiH of September 2nd, 1999];

Bearing in mind that in terms of Article 3 of the Decision on Restructuring the Public Broadcasting System in Bosnia and Herzegovina the High Representative shall, in consultation with IMC, appoint a Transfer Agent, and an Expert Team, to take care of the dismantling of RTV BiH through the re-allocation of its resources to PBS BiH, FBiH RTV and RTRS, settle any residual claim among the recipients in a way securing their continuation as viable public broadcasters, and decide on the allocation of resources previously used for the illegal re-broadcasting of HRT into BiH;

Noting that, due to the political and financial difficulties which arose in the implementation of the High Representative's Decision on Restructuring the Public Broadcasting System in Bosnia and Herzegovina, the deadlines established under Article 3 of the Decision for the activities of the Transfer Agent could not be met;

All this considered, born in mind and noted, I hereby issue the following

DECISION

On the appointment of a Transfer Agent and Expert Team

Article 1

According to Art. 3.(A) of the High Representative's Decision on Restructuring the Public Broadcasting System of Bosnia and Herzegovina, and following consultations with the Independent Media Commission, I hereby appoint Mr. John Shearer, a British citizen, as the Transfer Agent. I also appoint Mr. Mike Gilmore (accountant) and Mr. Jeff Baker (engineer), also British citizens, as the members of the Expert Team to provide the Transfer Agent with relevant technical assistance.

Article 2

Paragraphs (B) to (E) of Article 3 of the Decision on Restructuring the Public Broadcasting System in Bosnia and Herzegovina are hereby repealed in their entirety and are replaced by the following:

"B. As soon as practicable, and in any case not later than 1 October 1999, the Transfer Agent shall as a temporary custodial measure make a substantial share of control over the programming and broadcasting capacity of RTV BiH available to RTV FBiH and a lesser share to PBS BiH. Both RTV FBiH and PBS BiH shall be entitled to use the programming and broadcasting

capacity under their temporary custody pending the dissolution procedure. In no way shall such a measure be regarded as prejudging the outcome of the dissolution procedure as detailed in letters (C) to (E) below.”

C. Not later than 1 November 1999 the Transfer Agent, assisted by the Expert Team, shall provide a concrete description of the liabilities and assets of RTV BiH to be apportioned among and transferred to the parties.

D. Not later than 1 December 1999, the parties shall conclude with the Transfer Agent, assisted by the Expert Team, appropriate agreements for the apportionment and transfer of the RTV BiH liabilities and assets, including any compensation as might be stipulated as part of the apportionment, and the procedure and timing of the transfer. The arrangements, which shall be submitted to the IMC for approval before they are carried out, shall take into account:

- That all Public Broadcasters shall emerge from the process as technically viable radio-television enterprises.
- That credits by public legal persons shall be as much as possible written off.
- The objective of a common transmission system for the entire territory of BiH.

E. Not later than 1 January 2000, the parties shall complete the execution of the approved transfer arrangements, and provide certification of such completion to IMC.

Article 3

By virtue of his appointment, the Transfer Agent and, subject to his guidance, the members of the Expert Team, shall be vested with all the powers necessary to carry out their mandate, as outlined in Article 3 and 4 of the Decision of 30 July 1999, as amended. The signatories of the General Framework Agreement for Peace in Bosnia and Herzegovina; the authorities of Bosnia and Herzegovina, the Brcko District, the Entities and subdivisions thereof; and the governing organs and personnel of RTV BiH, PBS BiH, RTV FBiH and RTRS shall fully cooperate with the Transfer Agent and the members of the Expert Team, and comply with their instructions.

Article 4

This Decision supersedes all inconsistent legislative and other provisions in force at the time of its enactment. It shall enter into force on the fifteenth day of April 2000, and will be appropriately disseminated beforehand. It shall be published as soon as practicable in the Official Gazette of Bosnia and Herzegovina, as well as in the Official Gazettes of the Federation of Bosnia and Herzegovina and of Republika Srpska.

Sarajevo, 15 April 2000
Wolfgang Petritsch
High Representative

Office of the High Representative