

Decision extending the mandate of the Liquidation Receiver for “Privredna Banka a.d. Srpsko Sarajevo”

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”;

Observing the importance that the international community attaches to the proper administration of the banking system of Bosnia and Herzegovina as an integral part of the peace implementation process;

Noting, by way of example of the said attachment, the welcome given by the Peace Implementation Council at the Conference held in London on 4-5 December 1996 to the commitment of the authorities in Bosnia and Herzegovina to pass laws in fields that include banking; further noting paragraph 44 a) of the Declaration of the Ministerial Meeting of the Steering Board of the said Council held in Luxembourg on 9 June 1998 in which the Board observed that new banking legislation should be adopted in both Entities; still further noting the call to the authorities in Bosnia and Herzegovina made by the said Council at its meeting in Brussels on 23-24 May 2000, for the said authorities to harmonize country-wide their approach in a number of areas including banking;

Recalling that the “Privredna Banka a.d. Srpsko Sarajevo” was placed under provisional administration by a decision of the Banking Agency of Republika Srpska dated 20 June 2003;

Mindful of the resignation of the Provisional Administrator appointed by the Banking Agency of Republika Srpska in May 2004 following an assault and battery perpetrated against his person, and of the appointment of a Provisional Administrator for “Privredna Banka a.d. Srpsko Sarajevo” by decision of the High Representative on 8 June 2004;

Further noting the decision of the High Representative of 7 November 2004, pursuant to which the banking license of “Privredna Banka a.d. Srpsko Sarajevo” was revoked and in accordance to with the Provisional Administrator commenced bankruptcy proceedings;

Recalling the report of the Provisional Administrator of “Privredna Banka a.d. Srpsko Sarajevo”, dated 8 May 2006, in which she informed the Banking Agency of Republika Srpska and the High Representative that, due to the sale of property acquired by “Privredna Banka a.d. Srpsko Sarajevo” and due to the accumulation of substantial funds through the collection of outstanding debts, “Privredna Banka a.d. Srpsko Sarajevo” was in a solvent position as of 30 April 2006, and in which the Provisional Administrator recommended liquidation of “Privredna Banka a.d. Srpsko Sarajevo”;

Further recalling the 12 May 2006 decision of the Basic Court of Bijeljina, which, upon the petition of the Provisional Administrator and in light of the solvent position of the bank, withdrew “Privredna Banka a.d. Srpsko Sarajevo” from bankruptcy proceedings;

Mindful of the Decision of the High Representative of 21 June 2006, according to which liquidation proceedings were instituted for “Privredna Banka a.d. Srpsko Sarajevo”, and which, upon the written requests of the Banking Agency of Republika Srpska dated 12 and 19 May 2006, appointed a Liquidation Receiver for said bank;

Further mindful of previous difficulties encountered by Banking Agency of Republika Srpska in the appointment, retention and replacement of a Provisional Administrator for "Privredna Banka a.d. Srpsko Sarajevo" that culminated in the Decision of the Management Board of the said Agency to solicit the aforementioned intervention of the High Representative, and that, in accordance with the terms of the aforementioned Decision of the High Representative, the mandate of the Liquidation Receiver of "Privredna Banka a.d. Srpsko Sarajevo" expires on 31 August 2006;

Considering the written request of the Banking Agency of Republika Srpska dated 14 August 2006, in which the said agency states that a hearing for the examination of claims received against "Privredna Banka a.d. Srpsko Sarajevo" is scheduled for 19 September 2006, and that the Banking Agency of Republika Srpska has not been able and will not be able to appoint a new Liquidation Receiver for "Privredna Banka a.d. Srpsko Sarajevo" prior to the said hearing, and, on that basis, requested the High Representative to accordingly extend the mandate of the Liquidation Receiver of the "Privredna Banka a.d. Srpsko Sarajevo";

Ever conscious of the need to ensure that the liquidation of "Privredna Banka a.d. Srpsko Sarajevo" can proceed efficiently, free from illegitimate outside interference;

Having taken into account and considered the totality of the matters aforesaid I hereby make and issue the following:

DECISION

Extending the mandate of the Liquidation Receiver for "Privredna Banka a.d. Srpsko Sarajevo"

Article 1

This Decision herewith extends the mandate of Ms. Toby Robinson as Liquidation Receiver of "Privredna Banka a.d. Srpsko Sarajevo" appointed by the Decision of the High Representative No. 17/06 of 21 June 2006. The mandate of the Liquidation Receiver shall terminate on 30th September 2006 .

Article 2

Ms. Toby Robinson shall continue to operate as Liquidation Receiver under the same conditions as established and defined in the Decision of the High Representative No. 17/06 of 21 June 2006 on Instituting the liquidation proceedings and appointing a Liquidation Receiver for the "Privredna Banka a.d. Srpsko Sarajevo".

Article 3

For the avoidance of doubt, it is hereby specifically declared and provided that the provisions of the Decision contained herein are, as each and every one of them, laid down by the High Representative pursuant to his international mandate and are not, therefore, justiciable by the Courts of Bosnia and Herzegovina or its Entities or elsewhere, and no proceedings may be brought in respect of duties carried out thereunder before any court whatsoever at any time hereafter.

Article 4

This Decision shall enter into force forthwith and shall be published without delay in the Official Gazette of Republika Srpska.

Sarajevo, 30 August 2006

Dr. Christian Schwarz-Schilling

High Representative