

Decision Enacting Law on Amendments to the Law on the Banking Agency of the Federation of BiH

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 which 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 at London on 4-5 December 1996 to the commitment of the authorities in Bosnia and Herzegovina to pass laws on fields including banking; further noting paragraph 44 a) of the Declaration of the Ministerial Meeting of the Steering Board of the said Council held at 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;

Noting that the Law on Banking Agency of the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of Bosnia and Herzegovina 9/96, 27/98, 20/00, 45/00, 58/02, 13/03), (hereinafter the FBiH Banking Agency Law), establishes the Banking Agency of the Federation of Bosnia and Herzegovina (hereinafter Banking Agency) in order to enhance the safety, good quality and legal performance of a market oriented and stable banking system of the Federation of Bosnia and Herzegovina;

Further noting that pursuant to said Law, the mandate of the members of the Managing Board, the Director and Deputy Director the Federation Banking Agency appointed by the Parliament of the Federation of Bosnia and Herzegovina for a period of five years expired on 21 September and 5 September 2005 respectively;

Mindful that the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina, at its session of 19 July 2006, failed to appoint the Director, the Deputy Director and the members of the Managing Board of the Banking Agency;

Conscious that the supervision of the Banking sector requires a Banking Agency that is operational at all time;

Deploring that the Parliament has failed, ten months after the expiry of the mandate of the Director, the Deputy Director and the management board, to appoint individuals to those positions;

Convinced that the law must provide for a mechanism that guarantees the uninterrupted operation of such crucial institutions as banking agencies by ensuring that the outgoing holders of the main positions continue to carry out their duties until such time as the appointing authority makes new appointments;

Having taken into account and considered the totality of the matters aforesaid the High Representative hereby issues the following:

DECISION

Enacting Law on Amendments to the Law on the Banking Agency of the Federation of Bosnia and Herzegovina

(Official Gazette of the Federation of Bosnia and Herzegovina 9/96, 27/98, 20/00, 45/00, 58/02, 13/03)

which is hereby attached as an integral part of this Decision.

The said Law shall enter into force as a law of the Federation Bosnia and Herzegovina, with effect from the date provided for in Article 4 thereof, on an interim basis, until such time as the Parliament of the Federation of Bosnia and Herzegovina adopts this Law in due form, without amendment and with no conditions attached.

This Decision shall come into force forthwith and shall be published without delay in the "Official Gazette of the Federation Bosnia and Herzegovina".

Sarajevo, 3 August 2006

Dr. Christian Schwarz-Schilling
High Representative

LAW ON AMENDMENTS TO THE LAW ON BANKING AGENCY OF THE FEDERATION OF BOSNIA AND HERZEGOVINA

Article 1

In Article 12, after paragraph 1, a new paragraph 2 shall be inserted and read as follows:

"The Director, the Deputy Director and the members of the Board shall continue to carry out their functions until such time as the Parliament appoints their respective replacements in accordance with Article 8 and Article 10 of this Law."

Article 2

This Law shall come into force forthwith and shall be applicable as of 5 September 2005. This law shall be published without delay in the Official Gazette of the Federation of Bosnia and Herzegovina.