

Decision Instituting the liquidation proceedings and appointing a Liquidation Receiver for the «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 “y 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;

Considering the concern repeatedly expressed by the international community, *inter alia*, through the Declaration of the said Council at its said meeting in Brussels on 23-24 May 2000, over ingrained corruption in Bosnia and Herzegovina that, apart from hindering the development of the market economy, undermines democratic governance and wastes public resources;

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 recalling 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 bankruptcy proceedings were commenced by the Provisional Administrator;

Considering the report of the Provisional Administrator of the “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 recommends liquidation of “Privredna Banka a.d. Srpsko Sarajevo”;

Further noting that on 12 May 2006, the Basic Court of Bijeljina, in light of the solvent position of “Privredna Banka a.d. Srpsko Sarajevo”, agreed to the request of the Provisional Administrator to withdraw “Privredna Banka a.d. Srpsko Sarajevo” from bankruptcy proceedings;

Further considering the letters of the Banking Agency of Republika Srpska dated 12 and 19 May 2006, in which the Banking Agency of Republika Srpska affirmed the Provisional Administrator’s recommendation to liquidate “Privredna Banka a.d. Srpsko Sarajevo” and requested that the High Representative institute liquidation proceedings and appoint a Liquidation Receiver;

Further mindful that the 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” have culminated in a Decision of the Management Board of the said Agency to solicit the aforementioned intervention of the High Representative;

Ever conscious of the need to ensure that the liquidation of “Privredna Banka a.d. Srpsko Sarajevo” can now proceed

efficiently, free from illegitimate outside interference;

Having taken into account and considered the totality of the matters aforesaid I hereby make and require to have issued the following:

DECISION

Instituting the liquidation proceedings and appointing a Liquidation Receiver

for the «Privredna Banka a.d. Srpsko Sarajevo»

1. By virtue of this Decision, the liquidation proceedings shall be instituted against "Privredna Banka a.d. Srpsko Sarajevo" (hereinafter referred to as: the Bank).
2. As of 22 June 2006, the mandate of Ms. Toby Robinson as Provisional Administrator of the Bank ceases.
3. As of 22 June 2006, Ms. Toby Robinson is appointed Liquidation Receiver of the "Privredna Banka a.d. Srpsko Sarajevo".
4. The Liquidation Receiver of the Bank shall be empowered, as if appointed Liquidation Receiver by the Banking Agency of Republika Srpska, to take all actions provided for under the Law.
5. The Liquidation Receiver shall act in accordance with the legislation in force, including the regulations and orders issued by the Banking Agency of Republika Srpska. For the performance of her authorities and responsibilities, the Liquidation Receiver is accountable to the Banking Agency of Republika Srpska.
6. A team of specialist, authorized by the Liquidation

Receiver to work under her direction, shall assist the Liquidation Receiver, and each member of said team shall be provided with a letter certifying such authorization and the identity of the bearer thereof.

7. The Liquidation Receiver and all persons authorized to work under her direction pursuant to this Decision, shall, notwithstanding the provisions of any local law or laws to the contrary, have full immunity for all time from all proceedings brought before any court in respect of actions carried out by her or them, under or by virtue of the mandate bestowed by this Decision and in the course of duties carried out hereunder, before any court whatsoever.

8. The Liquidation Receiver shall, whenever required by law, request the approval from, and shall report to, the Banking Agency of Republika Srpska with regard to all activities performed in realization of liquidation proceedings of the said Bank.

9. No later than 25 August 2006, the Liquidation Receiver shall deliver a final written report on all activities performed in the realization of liquidation of the Bank to the Banking Agency of Republika Srpska and to the High Representative.

10. The mandate of the Liquidation Receiver shall terminate on 31 August 2006.

11. The cost of the Liquidation Receiver will be borne by the Bank.

12. Prior to the expiration of the mandate of the Liquidation Receiver, as provided for by Article 10 of this Decision, the Banking Agency of Republika Srpska shall, on the basis of the financial status of the bank and the status of liquidation proceedings, appoint a new Liquidation Receiver.

13. In the event a new Liquidation Receiver is not appointed

prior to 1 September 2006 , the Banking Agency of Republika Srpska shall thereafter undertake all necessary actions, in accordance with relevant Law, to finalize liquidation of said Bank.

14. For the avoidance of any doubt or ambiguity it is hereby specifically declared and provided that the provisions of the Decision herein are, as each and every one of them, laid down by the High Representative pursuant to his international mandate and are therefore not justiciable by the Courts of Bosnia and Herzegovina.

15. This decision, which has immediate effect, shall be published without delay in the Official Gazette of Republika Srpska.

Sarajevo, 21 June 2006
Dr. Christian Schwarz-Schilling
High Representative