

Directive Reducing Party Funding of Political Parties for their Failure to Bring Their Legislation on Primary and Secondary Education in Line with Framework Law on Primary and Secondary Education in BiH

In the exercise of the powers vested in the High Representative 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 the Peace Agreement throughout Bosnia and Herzegovina and its Entities which “may include actions against persons holding public office or officials...who are found by the High Representative to be in violation of legal commitments made under the Peace Agreement or the terms for its implementation”;

Noting that the Peace Implementation Council, at its meeting held in Madrid on 16 December 1998, underlined the tasks of High Representative include the co-ordination of international efforts in regard to education”;

Further noting that the Peace Implementation Council, at its meeting held in Brussels on 21st November 2002, concluded “that BiH needs to develop a common core curriculum that is consistent with European standards and to rationalise existing structures in order to make financing and management (of education) more efficient”;

Recalling that the Council of Europe’s post-accession commitments obligated Bosnia and Herzegovina to eliminate by 24 March 2004 all aspects of segregation and discrimination based upon ethnic origins;

Applauding the overriding objective of the Education Reform Strategy to depoliticize education, while creating conditions that will ensure equal access to a high-quality, modern education throughout the country;

Fully Cognisant of the fact that in order to achieve this objective, all children must have access to quality education in integrated, multi-cultural schools free of political, religious, cultural and other bias and discrimination which respect the rights of all children;

Further Noting that Peace Implementation Council, in its Declaration adopted at its meeting held in Sarajevo on June 12, 2003, “urged the BiH authorities to implement these reforms [by passing the draft State-level Framework Law on Primary and Secondary Education in Bosnia and Herzegovina]” and to take “steps toward harmonizing the three ‘ethnic’ curricula into one BiH-wide common core curriculum, for all subjects taught in primary and general secondary schools”;

Deploring that a number of Cantons have so far failed to bring their legislation on Primary and Secondary education in line with Framework Law on Primary and Secondary Education in Bosnia and Herzegovina (Official gazette of BiH no: 18/2003, 1st July 2003, hereinafter referred to as “the Framework Law”);

Having considered, borne in mind and noted all the matters aforesaid, the High Representative hereby issues the following:

DIRECTIVE

Reducing Party Funding of Political Parties

for their Failure to Bring Their Legislation on Primary and Secondary Education in Line with Framework Law on Primary and Secondary Education in Bosnia and Herzegovina

Article 1

The budgetary itemisation for the fiscal year 2004 for political party funding that has yet to be disbursed to the HDZ in the Central Bosnia and Western Herzegovina Cantons shall be reduced by five (5) percent, effective on 4 June 2004.

Article 2

The budgetary itemisation for the fiscal year 2004 for political party funding that has yet to be disbursed to the HDZ in Canton 10 (Livno) shall be reduced by five (5) percent if the said Canton fails to adopt legislation regulating primary and secondary education in line with the Framework Law by 18 June 2004. Such reduction will be deemed to have taken effect as of 4 June 2004.

Article 3

The budgetary itemisation for the fiscal year 2004 for political party funding that has yet to be disbursed to the HDZ, the SDA and the SBiH in Herzegovina-Neretva Canton shall be reduced by five (5) percent if the said Canton fails to adopt legislation regulating primary and secondary education in line with the Framework Law by 18 June 2004. Such reduction shall be deemed to have taken effect as of 4 June 2004.

Article 4

If the authorities of the Cantons referred to under Article 1 of this Directive fail to adopt legislation regulating primary and secondary education in line with the Framework Law, five (5) percent of the political party funding allocated to the HDZ for the fiscal year 2004 shall be deducted on a weekly basis from 4 June 2004 until said legislation has been passed.

If the authorities of the Cantons referred to under Article 2 and 3 of this Directive fail to adopt legislation regulating primary and secondary education in line with the Framework Law by 18 June 2004, five (5) percent of the political party funding allocated to the parties referred to in said Articles (hereinafter: "the Parties") for the fiscal year 2004 shall be deducted on a weekly basis from 4 June 2004 until said legislation has been passed.

Article 5

The Ministers of Finance of the Cantons referred to under Articles 1 through 3 of this Directive respectively, or any other person who may be acting on behalf of the aforesaid persons, are hereby directed to take the following steps:

1. to implement this Directive;
2. to furnish, no later than three (3) working days from the receipt of the notification provided for in Article 6, Paragraph 1 of this Directive, evidence, in the form of a written undertaking, to the Office of the High Representative that Articles 1 through 3 of this Directive have been executed; and
3. as applicable:
 - a. to furnish, no later than three (3) days from the date of the signing of this Directive, evidence, in the form of a written undertaking, to the Office of the High Representative that Article 1 of this Directive has been executed.
 - b. to furnish, no later than the 21st June 2004, evidence, in the form of a written undertaking, to the

Office of the High Representative that Articles 2 and 3 of this Directive has been executed.

The respective Minister of Finance shall be held accountable for the orderly and timely execution of this Directive.

Article 6

This Directive does not require further procedural steps to be taken and shall supersede any regulation or law which may be in contradiction with it.

Article 7

Upon adoption of legislation regulating primary and secondary education in line with the Framework Law or at the latest in December 2004, the High Representative will notify the Cantons referred to in Articles 1 through 3 of this Directive individually of the total sums that shall be deducted pursuant to this Directive from the political party funding allocated in 2004 to the Parties in that particular Canton.

The portion of the said sums that cannot be deducted from the budgetary itemisation allocated to the Parties for the fiscal year 2004 shall be deducted from the budgetary itemisation for political party funding to the Parties for the fiscal year 2005.

The sums deducted pursuant to Paragraph 1 and 2 of this Article shall be transferred to the budget item pertaining to "Education" of the relevant Canton.

Article 8

For the avoidance of doubt, it is hereby specifically declared and provided that the provisions of the Directive contained herein are, as to 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 9

This Directive shall enter into force forthwith and shall be immediately published on the official website of the Office of the High Representative and shall be published without delay in the Official Gazettes of the Cantons referred to in Article 1 of this Directive.

Sarajevo, 4 June 2004

*Paddy Ashdown
High Representative*