

Decision On The Implementation Of The Reorganization Of The City Of Mostar

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 “[f]acilitate, 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 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 Steering Board, at its meeting held at Political Directors' level on 26 September 2003, considered the resolution of the Mostar question as crucial to the sustainable and peaceful development of Bosnia and Herzegovina;

Bearing in mind the special status given to Mostar under the Dayton Agreement on Implementing the Federation of Bosnia and Herzegovina, signed on 10 November 1995, and in the Annex thereto which establishes principles for the Interim Statute for the City of Mostar;

Further bearing in mind that the political authorities at the "City" and the "City-Municipality" levels have hitherto failed to unify the City of Mostar under the said Interim Statute, and have, rather, used the City-Municipalities to create parallel institutions and divide the City;

Mindful of the need to consolidate the administrative, functional and legal unity of the City of Mostar in a manner that promotes efficiency in the delivery of services, guarantees the fundamental rights of all citizens, ensures the collective rights of the constituent peoples and prevents dominance of one segment of the population of Mostar;

Acknowledging the work of the Commission for Reforming the City of Mostar established by the High Representative on 17 September 2003 (hereinafter: "the Commission");

Welcoming the efforts undertaken by the political parties involved in the said Commission which culminated in concrete proposed solutions to various key issues relating to the reorganization of the City of Mostar;

Convinced that said proposed solutions provide a sound basis for the establishment of the aforementioned guarantees and safeguards, and, further contain carefully negotiated power-sharing provisions aimed at enabling the citizens of Mostar to build a foundation for a progressive future predicated upon,

inter alia, protection of national vital interests;

Encouraged that said proposed solutions emerged from the broadest possible consensus with respect to the reorganization of the City of Mostar;

Regretting that the parties involved in the Commission failed to reach a consensus on two outstanding issues and convinced that the resolution of said issues should significantly improve applied standards of governance in the City while maintaining an electoral architecture reflective of the *sui generis* circumstances in Mostar arising from profoundly conflicting interests among its constituent peoples.

Bearing in mind that the Steering Board of the Peace Implementation Council, at its meeting held in Brussels on 11 December 2003, “committed itself to give its full support to the implementation of a solution to the issue of Mostar based on a single coherent city administration with effective guaranteed power-sharing mechanisms which prevent any one people having majority control of the City Council and to act to ensure that implementation of the plan in the coming months has the necessary political and economic support”;

Stressing the need to hold democratic elections at local level in Mostar as well as throughout Bosnia and Herzegovina on the first Saturday of October 2004 and bearing in mind the need to start preparing those elections;

Noting that the successful implementation of reforms of the City structures and, in particular, the reorganization of the City Administration in light of its new competencies will give rise to issues requiring the support of all representatives of the numerous divisions of local self-government currently active within the jurisdiction of the City;

Convinced that a comprehensive settlement on the institutional reorganization of the City of Mostar requires the continued engagement of the International Community;

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

DECISION

ON THE IMPLEMENTATION OF THE REORGANIZATION OF THE CITY OF MOSTAR

CHAPTER I – GENERAL PROVISIONS

Article 1

The reorganization of the City of Mostar shall include, but shall not be limited to, the implementation of the Decisions numbers 179 through 185, enacted by the High Representative on 28 January 2004.

Article 2

Without derogation of and in full accordance with the applicable provisions of the Statute of the City of Mostar delineating the respective competencies and remits of the organs of the City of Mostar, the Mayor of the City of Mostar (hereinafter: “the Mayor”), the Deputy Mayor of the City Mostar (hereinafter: “the Deputy Mayor”) and the City Council are responsible for the implementation of the reorganization of the City of Mostar.

Article 3

Upon entry into force of the Amendments to the Constitution of the Federation of Bosnia and Herzegovina (Decision nr. 179) and the Statute of Mostar (Decision nr. 183), the City-Municipalities shall cease to exist as legal entities. The City of Mostar shall be the legal successor of the City-Municipalities and shall assume all rights, duties, obligations and responsibilities of former City-Municipalities, except as otherwise provided for by this

Decision.

CHAPTER II – THE SPECIAL ENVOY FOR THE REORGANIZATION OF THE CITY OF MOSTAR

Article 4

The High Representative shall appoint a Special Envoy whose task will be to co-ordinate all efforts relating to the reorganisation of the City of Mostar (hereinafter: “the Special Envoy”).

Article 5

The Special Envoy may refer to the Mayor and Deputy Mayor of the City of Mostar any issue he/she deems necessary for the reorganization of the City of Mostar.

Article 6

The authorities of Bosnia and Herzegovina, the Entities and subdivisions thereof shall fully co-operate with the Special Envoy.

The authorities of the City of Mostar, as well as the authorities of the City-Municipalities, shall co-operate with the Special Envoy and disclose any information that the Special Envoy deems necessary for the proper execution of his/her responsibilities under this Decision.

The Special Envoy shall exercise his/her best efforts to assist the authorities of the City to discharge their obligations as set forth in this Decision. In the event that one of the decisions or measures provided for under this Decision is not executed or adopted within the stipulated timeframe, the Special Envoy may refer the matter to the High Representative for action.

The authorities of the City of Mostar may refer to the Special Envoy any dispute arising from the reorganization of the City

of Mostar. The Special Envoy may decide all such disputes. The decisions adopted by the Special Envoy shall be final and binding.

Article 7

Upon recommendations of the Committee for Confidence Building Measures, as referred to in Article 30 of this Decision, the Special Envoy may make proposals to the appropriate authorities within or beyond the City of Mostar.

Article 8

The Special Envoy may propose to the High Representative any measure against any elected official who, in the judgment of the Special Envoy, is in violation of Article 38 paragraph 2 or Article 6, paragraph 2 of this Decision.

Article 9

The Special Envoy shall establish the working groups as provided for in this Decision and may establish any other working groups and/or invite external experts to assist the authorities of the City of Mostar and the Implementation Unit in their functions, as he/she deems appropriate.

The Special Envoy may establish an advisory body, composed of the City-Municipalities' Mayors in office on the day of the entry into force of this Decision, charged with assisting him/her in the performance of his/her function as a Special Envoy.

The Special Envoy shall, no later than 30 days from the issuance of this Decision, establish a Working Group for the preparation of proposals for harmonizing laws and regulations with the Constitution of the Federation of Bosnia and Herzegovina, the Constitution of Herzegovina-Neretva Canton and the Statute of the City of Mostar. The Mayor and Deputy Mayor shall propose experts from the administration of the

City of Mostar as members of said Working Group. Representatives of the relevant ministries of the Federation of Bosnia and Herzegovina and of the Canton of Herzegovina-Neretva may assist the Working Group, as appropriate.

The Special Envoy may appoint a designate to carry out his/her duties under this Decision.

CHAPTER III – IMPLEMENTATION UNIT

Article 10

In order to facilitate the implementation of the reorganization of the City of Mostar and to assist the authorities of the City of Mostar in carrying out their tasks, as referred to in this Decision, an Implementation Unit shall be established. The implementation Unit will, in particular, assist the authorities in the preparation of the decisions and other measures provided for under Chapters III to V of this Decision and provide guidance to the working groups established under Article 9, Chapter IV and Chapter V of this Decision.

Article 11

The Implementation Unit shall be composed of employees from the administration of the City of Mostar and of the City-Municipalities, as appropriate. The Mayor of the City of Mostar and of the City Municipalities will temporarily assign employees to the Implementation Unit by 15 February 2004.

The High Representative shall, in consultation with the Special Envoy, appoint experts to work in the Implementation Unit.

Article 12

The High Representative may designate a Director and a Deputy Director of the Implementation Unit.

Article 13

The administration of the City of Mostar shall provide the Implementation Unit and as necessary for the Special Envoy, with adequate premises and facilities for the discharge of their duties.

Article 14

Employees assigned in accordance with Article 11, paragraph 1 of this Decision shall report directly to the Director of the Implementation Unit (hereinafter: "the Director").

The Director shall report through the Special Envoy to the High Representative on the work of the Implementation Unit and inform the Mayor and the Deputy Mayor about the work of his/her Unit.

Article 15

The Director may relieve an employee assigned to the Implementation Unit under Article 11, paragraph 1 of this Decision from his/her duty and may require the Mayor and Deputy Mayor to assign a replacement, after consultation with the Director, as appropriate.

CHAPTER IV – EMPLOYMENT MATTERS

Article 16

Upon the entry into force of this Decision, the Mayor and Deputy Mayor shall prepare an Interim Systematization Plan to be adopted by the 16th of March 2004.

Article 17

The Interim Systematization Plan shall specifically outline and govern the structure of the administration of the City of Mostar in a manner that ensures continuity of delivery of services to the citizens. The said plan shall remain in force

until the Rulebook on internal organization as provided for in Article 19 of this Decision is adopted.

Article 18

As of the 16th of March 2004, employees of the administration of the former City-Municipalities shall become employees of the administration of the City of Mostar until such time as a final decision regarding their status and future employment in the administration of the City of Mostar has been issued.

Article 19

This City Council shall adopt the Rulebook on internal organization (hereinafter: "the Rulebook") provided for by the Statute of the City of Mostar by 30th of June 2004. The Rulebook shall set forth the organisational structure as well as an administrative staff rationalisation plan for the City of Mostar, its departments, sub-departments and branch offices located in the City Areas. The Rulebook shall include and be predicated upon a comprehensive survey and analysis of the capital, technical and human resources required by the administration of the City of Mostar. The Rulebook shall further take into account the current and future volume and classifications of work to be undertaken by the administration of the City of Mostar. The Rulebook shall also systematize all working positions within the administration of the City of Mostar and include coefficients for each position, which shall serve as a basis for the calculation of salaries in accordance with applicable laws.

Article 20

Upon the adoption of the Rulebook under Article 19 of this Decision, all existing positions in the new administration of the City of Mostar shall be filled through internal vacancy announcements, in accordance with applicable laws.

Article 21

All employees in the administration of the City of Mostar may internally apply for new positions. Those employees who have been accepted for new positions within the administration of the City of Mostar shall have their work contracts, which shall reflect the terms of the new position, extended.

Article 22

Employees who have not been accepted on a new position within the administration of the City of Mostar shall be declared redundant in accordance with applicable laws.

CHAPTER V – BUDGET AND FINANCING MATTERS

Article 23

The Special Envoy shall, upon the issuance of this Decision, establish a working group consisting of representatives of the Finance Departments of the former City-Municipalities (hereinafter: "Finance Integration Team"), the Director of the Implementation Unit or his/her designated representative, as well as other experts as deemed appropriate. The Head and/or Deputy Head of the Finance Department of the administration of the City of Mostar shall also be members, one of which shall chair the Finance Integration Team.

Article 24

Each City-Municipality shall submit to the Mayor and Deputy Mayor an overview of their financial status and a list of all City-Municipality decisions regulating the collection of non-tax revenues no later than the 15th of March 2004.

Article 25

Decisions taken by the City of Mostar and City-Municipalities providing non-tax revenues (not limited to charges, fees, penalties, rents) for the City and City-Municipalities' budgets shall remain in force until superseded by appropriate

decisions of a responsible authority of the City of Mostar. These revenues shall be paid to the relevant Single City Administration Account intended for receipt of non-tax revenues, which will be established by the 16th of March 2004.

Article 26

The revenues belonging to the City of Mostar pursuant to the Law on Distribution of Public Revenues of the Canton of Herzegovina-Neretva shall be deposited into the Single City Administration Account to be established by the 16th of March 2004.

Article 27

The City and City-Municipalities' accounts used before this Decision entered into force shall be closed by 15th of March 2004.

The Ministry of Finance of the Federation of BiH shall, by the deadline referred to in the previous paragraph of this article, abolish the three-digit municipal codes for the six City-Municipalities and Central Zone of the City of Mostar, designated by the Instruction of the FBiH Ministry of Finance (FBiH Official Gazette, 55/00), and shall replace these with a single three-digit municipal code for the City of Mostar.

Article 28

The Finance Integration Team referred to in Article 23 of this Decision, shall, within one month from entry into force of this Decision, prepare a plan for monthly financial needs for the City as a whole and for each branch office of the administration of the City of Mostar located in the City Areas.

The City Council shall, by 15th of March 2004, adopt the Decision on Temporary Financing of the City of Mostar for 2004

based on the Plan under paragraph 1 of this Article. Notwithstanding Article 3 of the Law on Budget of the Herzegovina–Neretva (Official Gazette of Herzegovina-Nereteva Canton, No. 3/98), this Decision shall remain in force until the adoption of the 2004 Budget.

Article 29

The Finance Integration Team shall prepare the Draft Budget for the City of Mostar, which shall be delivered by 30th of April 2004 to the Mayor and the Deputy Mayor to the City Council for adoption.

The City Council shall adopt the 2004 Budget by 31st of May 2004.

CHAPTER VI – COMMITTEE FOR CONFIDENCE BUILDING MEASURES

Article 30

After consultations with the Mayor and Deputy Mayor, the Special Envoy shall establish a Committee composed of experts in different areas of relevant expertise, representatives of the civil society and political and religious leaders, charged with developing Confidence Building Measures.

The Implementation Unit shall submit for consideration by the Committee a roster of projects representing Confidence Building Measures.

Article 31

The Special Envoy or his/her designated representative shall propose the agenda and shall chair the meetings.

The recommendations adopted at the meetings of the Committee shall be forwarded to the relevant authorities as well as to the Mayor, the Deputy Mayor and the City Council for consideration.

CHAPTER VII – ASSETS AND LIABILITIES

Article 32

Each City-Municipality shall by 15th of March 2004 submit to the Mayor and the Deputy Mayor an inventory list of all movable and immovable property within the administration of that City-Municipality.

Article 33

The Special Envoy shall establish a Working Group for the Evaluation of Assets and Liabilities of the City of Mostar (hereinafter: Assets and Liabilities Working Group) by the 15th March 2004.

Article 34

The Special Envoy shall determine the composition of the Assets and Liabilities Working Group, provided that each City Municipality is represented by at least one representative from the relevant Departments, and provided that one person appointed by the Mayor represents the administration of the City of Mostar from the Finance Department.

The Special Envoy may appoint international experts to the Working Group.

Article 35

The Assets and Liabilities Working Group shall, no later than 1 May 2004, submit to the City Council a comprehensive report on all credits, loans, mortgages, collateral and any other obligations or responsibilities to which the City-Municipalities are a party. The report shall include the following: a detailed listing of all obligations, as debtor and as creditor, the dates of maturity, and recommendations on the most rational manner in which these obligation will be either paid or collected.

The City Council shall adopt the aforementioned evaluation of the assets and liabilities of the City upon a majority vote, as prescribed by the Statute of the City of Mostar.

CHAPTER VIII – FINAL PROVISIONS

Article 36

The Mayor and the Deputy Mayor shall, by the 1st of March 2004, establish a timetable for the implementation of the reorganisation of the City of Mostar in accordance with this Decision.

Article 37

The current City Councilors, the Mayor and the Deputy Mayor shall remain in office until the end of their mandate.

Notwithstanding the provisions of the new Statute of the City of Mostar, the Deputy Mayor shall retain all responsibilities, as set forth in Article 40 of the Interim Statute of City of Mostar, until the end of his/her mandate.

Article 38

The mandate of the Councilors of the City-Municipalities, as well as the mandate of the Mayors and the Deputy Mayors of the City-Municipalities shall be terminated upon the entry into force of a new Statute of the City of Mostar.

Until the entry into force of the new Statute, the Councilors of the City-Municipalities and the Mayors and Deputy Mayors of the City-Municipalities, as referred to in Paragraph 1 of this Article, shall be obliged to co-operate fully with the Special Envoy, the Implementation Unit and the relevant authorities of the City of Mostar on the implementation of the reorganization of the City of Mostar pursuant to this Decision. In particular, the Mayors and Deputy Mayors shall guarantee to the Special Envoy, as well as to officials of the City, full

and unimpeded access to files, records, documents, archives and facilities.

The High Representative shall hold the Mayors and Deputy Mayors of the City-Municipalities accountable for any failure by the City-Municipalities to comply with the terms of this Decision.

Article 39

This Decision shall enter into force forthwith and shall be published without delay in the Official Gazette of the Federation of Bosnia and Herzegovina, in the Official Gazette of Herzegovina-Neretva Canton and in the Official Gazette of the City of Mostar.

Article 40

This Decision supersedes all inconsistent legislative and other provisions in force at the time of its enactment.

Sarajevo, 28 January 2004

*Paddy Ashdown
High Representative*