

Decision Enacting The Law On Amendments To The Law On Earmarking And Channelling A Part Of The Company's Revenue Effectuated On The Basis Of The Use Of The Hydro-Power Plants Of The FBiH

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 by one segment of the population of Mostar;

Acknowledging the work of the Commission for Reforming the City of Mostar established by 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 reorganisation of the City of Mostar;

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";

Recalling that on 2 August 2000 the City Council of Mostar enacted the Decision on the Fee for the Management of Areas for Providing Infrastructure pursuant to the Amendment XVI to the BiH Federation Constitution, Amendment I to the Constitution of the Hercegovina-Neretva Canton, article 64 of the Law on Local Self-Government of the HN Canton, article 5 of the Law on Distribution of Public Revenues of the HN Canton, article 7,

paragraph 2 and article 64 of the Interim Statute of the City of Mostar;

Recalling that the effects of the Federation Law on Earmarking and Channelling a Part of the Company's Revenue Effectuated on the Basis of the Use of Hydro-Power Plants (Official Gazette of the Federation of Bosnia and Herzegovina, 44/02) created a financial crisis for the City Administration by repealing the Decision of the City Council of Mostar of 2000 (Official Gazette of the City of Mostar, 1/00);

Further recalling that on 17 April 2003 the High Representative enacted the Law on amendments to the Law on Earmarking and Channelling a Part of the Company's Revenue Effectuated on the Basis of the Use of the Hydro-power Plants (Official Gazette of the Federation of Bosnia and Herzegovina, 18/03) in order to ensure the City's funding for the interim period until suitable arrangements have been made to unify its administrative structures; noting that this Decision will cease to apply on 1 May 2004.

Bearing in mind that the results of a unified city administration will show positive financial effects only in the course of the year 2005;

Recognising the need to provide the required funding for the period until unification of the City's administrative structures is achieved; also noting that the temporary funding on the basis of this Decision and the Decision of 28 January 2004 amending the Federation of Bosnia and Herzegovina Law on Earmarking and Channelling a Part of the Company's Revenue Effectuated on the Basis of the Use of the Hydro-power Plants is conditional on the timely implementation of all actions that are required to unify the City in the coming months.

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

DECISION

ENACTING THE LAW ON AMENDMENTS TO THE LAW ON EARMARKING AND CHANNELLING A PART OF THE COMPANY'S REVENUE EFFECTUATED ON THE BASIS OF THE USE OF THE HYDRO-POWER PLANTS OF THE FEDERATION OF BOSNIA AND HERZEGOVINA,

which is hereunder attached as an integral part of this Decision

The said Law shall enter into force as a law of the Federation of Bosnia and Herzegovina, with effect from the date provided for in Article 2 thereof, on an interim basis, until such time as the Parliamentary Assembly of the Federation of Bosnia and Herzegovina adopts this Law in due form, without amendments 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 of Bosnia and Herzegovina.

Sarajevo, 28 January 2004

*Paddy Ashdown
High Representative*

THE LAW ON AMENDMENTS TO LAW ON EARMARKING AND CHANNELLING A PART OF THE COMPANY'S REVENUE EFFECTUATED ON THE BASIS OF THE USE OF THE HYDRO-POWER PLANTS OF THE FEDERATION OF BOSNIA AND HERZEGOVINA

(Official Gazette of the Federation of Bosnia and Herzegovina, 44/02 and 18/03)

Article 1

Article 10, paragraph 2 shall be amended and read as follows:

“As an exception to the first paragraph of this Article, the Decision on the fee for the Management of areas for providing infrastructure (City Official Gazette of the City of Mostar 1/00, 9/03) as amended by the Decision of the High Representative No. 185 of the 28 January 2004 shall apply in its amended form until 1 May 2005.”

After paragraph 2, a new paragraph 3 shall be added and read as follows:

“The Special Envoy of the High Representative for Mostar may recommend that the High Representative terminates the interim funding as set forth by this Law and the Decision on the fee for the Management of areas for providing infrastructure (City Official Gazette of the City of Mostar 1/00, 9/03 as amended by the High Representative Decision of 28 January 2004 at an earlier time if the Special Envoy considers that the authorities of the City of Mostar have failed to abide by the terms stipulated in the Decision of the High Representative of 28 January 2004 on the Implementation of the Reorganization of the City of Mostar.”

Article 2

This Law shall enter into force on 15 March 2004 and shall be published without delay in the Official Gazette of the Federation of Bosnia and Herzegovina.