

Decision Enacting the Law on the Treasury in the Federation of Bosnia and Herzegovina

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 implementation of the Peace Agreement throughout Bosnia and Herzegovina and its Entities”;

Considering the fact that the Single Treasury Account has been introduced in the Federation of Bosnia and Herzegovina but is currently functioning without the necessary legal framework for its work;

Noting that the law attached hereto shall provide the legal framework for the establishment of the Single Treasury Account in all Cantons of the Federation of Bosnia and Herzegovina;

Bearing in mind “An Agenda for Reform Agreed between the Government of Bosnia and Herzegovina and the International Community” announced on 31 July 2002, which has as an integral part of its Pledge “to make Governments more efficient” the promise to “introduce modern treasuries at all levels”;

Further bearing in mind that the Single Treasury concept will introduce transparency and accountability in the work of the Federation of Bosnia and Herzegovina;

Taking into account the fact that the Single Treasury Account legal framework has been introduced likewise both at the level of Bosnia and Herzegovina and at the level of Republika Srpska;

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

DECISION

Enacting the Law on the Treasury in the Federation of Bosnia and Herzegovina

The said law, which forms an integral part of this Decision, shall enter into force as a law of the Federation of Bosnia and Herzegovina as provided for in Article 32 thereof, but on an interim basis, until such time as the Parliament of the Federation of Bosnia and Herzegovina adopts the same in due form, without amendment and with no conditions attached.

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

Sarajevo, 21 October 2002

Paddy Ashdown

Law on the Treasury in the Federation of Bosnia and Herzegovina

I GENERAL PROVISIONS

Article 1

This law regulates the establishment, authority and management of the Treasury in the Federation of Bosnia and Herzegovina (hereinafter: the Federation).

The authorities of the Treasury include:

- 1) All public sector funds and financial transactions, including budget and extra-budgetary funds and disbursements of tax and non-tax revenues, fees, compensations and other revenues from public-source services and activities, credits, and grants of the Federation;
- 2) Transfers of temporary cash surpluses between treasury accounts with the objective of meeting short-term requirements for cash needed to execute the budget and other laws;
- 3) Maintenance of accounting and reporting systems, and accounting records in accordance with internationally recognized standards for public sector accounting;
- 4) Maintenance of management and accounting controls capable of fixing accountability for public revenues, receipts, financing and expenditure transactions, including contractual commitments for future payment; and
- 5) Responsibilities for all debt, including its issuance, planning and management.

Article 2

Definitions and terms used in this Law have the following meanings:

- a) Treasury – represents the basic organizational unit within the Federation Ministry of Finance and the Cantonal Ministries of Finance in which, according to this Law, and other regulations, the activities occur relating to planning budget execution and implementation of the budget of the Federation, as well as budgets of the cantons; maintaining the accounting and accounting policies; cash management and maintaining the Treasury Single Account; repayments of debt, issuing guarantees; issuance of new debt and management of unused funds and property.
- b) Ministries of Finance—means the Federation Ministry of Finance and the Cantonal Ministries of Finance.

c) Budget – represents a regulation of the Parliament that provides a plan of financial activities, which includes the amount of revenues, receipts, and the determined amount of expenditures and other payments for a period of one fiscal year. The annual Budget shall determine the upper limit of the total debt, which itself includes the amount of existing debt, and new debt for that budget year. The annual Budget also determines the total guarantee amount.

d) Internal control – the organization, policies and procedures used to help ensure that government programs achieve their intended results; that the resources used to deliver these programs are consistent with the stated aims and objectives of the organizations concerned; that programs are protected from waste, fraud and mismanagement; and that reliable and timely information is obtained, maintained, reported and used for decision-making.

e) Internal audit – refers to those audits performed by a department or unit within the Treasury or within the Ministry of Finance, which audit unit is entrusted with assessing the ministry or organization's systems and procedures in order to minimize the likelihood of errors, fraud and inefficient practices. All internal audit units must be functionally independent within the Ministry of Finance and report directly to the Minister of Finance.

f) Treasury General Ledger – represents a systematic record of transactions and business events relating to revenues, receipts, expenditures and other payments, as well as the state of the assets, liabilities and equity, that occur during a fiscal year or up to a certain period, and that provides information on transactions and business events in accordance with the regulated chart of accounts and classifications. The General Treasury Ledger, together with the Treasury Single Account, represents the basic system for public expenditure management.

g) Treasury Single Account (hereinafter TSA) — consists of the Depository Account located in a commercial bank, the Safekeeping and Investment Account and one or more Transaction Accounts, and Cash Transaction Accounts, as necessary. All of these bank accounts must be held in the name of the Ministries of Finance. The purpose of the TSA is to centralize control of all public funds in the respective ministries of finance. The Federal Ministry shall prepare all necessary procedures and provisions for establishing a TSA system. When the TSA system becomes effective, all the individual accounts of budget institutions shall be closed, and their balances shall be transferred over to the TSA.

h) Authorized Ministry – is the managing body that is marked in the Budget as an “apportionment”.

i) Budget institutions – are considered Authorized Ministries and other management bodies which are financed from the Budget. An Authorized Ministry that contains a spending unit, which is marked in the Budget as a budget chapter in its apportionment, is responsible for those spending units in the Budget.

j) Issuance of New Debt – represents all necessary procedures, including negotiation of the terms, preparation of documents and receipt of all required approvals and due execution sufficient to create a new and enforceable obligation between a borrower and a lender, in accordance with law and other regulations.

k) Debt Forecasting — represents an estimated amount of total debt over the next fiscal year, and following years, based upon the total amount of debt currently outstanding, the schedules for repayment of existing debt and the total amount of debt projected to be issued during the following periods.

l) The Law regarding the Budgets (hereinafter referred to as: the Law) – is the Law issued in the “Official Gazette of the Federation of Bosnia and Herzegovina”, no. 20/98 and which regulates the following arrangements: the preparation, enactment and execution of the Budget of the Federation; the Budgets of cantons, cities, and municipalities; and the financial plans of the extra-budgetary funds; the loans and debt and the accounting and control of the Budget.

m) Public Funds – include all budgetary and extra budgetary funds and disbursements of tax revenue and non-tax revenues, fees, compensations and other revenues from own-source services and activities, credits, and grants (unrequited funds) that must all be deposited in and disbursed from the TSA.

n) Modified Accrual Principle – is the accrual-based methods that recognize transactions and events at the time economic value is created, transformed, exchanged, transferred, or extinguished and when all economic flows (not just cash) are recorded. Under certain modifications of the accrual-based methods, physical assets are expensed at the time of purchase.

o) Transaction Accounts – are the bank accounts established in commercial banks by the Treasury which are held in the name of the Ministries of Finance, and through which day-to-day expenditure transactions of the Budget users are paid.

End of day cash balances in the Transaction Accounts are transferred daily to the Safekeeping and Investment Account.

In addition there may also be Cash Transaction Accounts established in the name of the Ministry of Finance, but with signatory authority for withdrawal of funds on behalf of the Budget institution for the limited purposes of paying salaries and for cashier operations.

p) Safekeeping and Investment Account – is one account established by the Ministries of Finance at the Central Bank of Bosnia and Herzegovina (hereinafter: the CBBiH) or at a commercial bank.

So long as the CBBiH does not pay interest on KM deposits, or if the CBBiH refuses, or for any reason decides to eliminate this Safekeeping and Investment Account for any of the Ministries of Finance, then a commercial bank shall assume the role of the CBBiH for this purpose.

The Safekeeping and Investment Account is to be established for the purpose of accepting revenues for safekeeping and investment.

q) Depositary Account at a Commercial Bank – one bank account established at a commercial bank that is used for depositing of all public revenues, and which is held on behalf of the Ministries of Finance. This is the account that the taxpayer pays into. All cash balances in the Depositary Account, at the end of the working day, must be zero.

II OPERATIONS OF THE TREASURY

Article 3

The Federal Ministry of Finance (hereinafter: the Federal Ministry) and the Cantonal Ministries of Finance shall, each for itself, establish and manage a Treasury.

An Assistant Minister shall head the Treasury Sector, as a basic organizational unit.

The Treasury is authorized to carry out the following activities: cash management; management of governments' bank accounts; financial planning and forecasting of cash flows; management of payment and other treasury operations; management of public sector accounting, Budget execution reporting, and financial reporting; management of internal control reviews; public debt management; administration of foreign grants and counterpart funds from international aid; and financial assets management.

The Federal Ministry may open Treasury Offices outside the central location of the Ministry, as may be needed.

The Government's Budget request to the Federation Parliament shall be accompanied by a report discussing Federation and cantonal government progress in establishing effective and efficient treasuries for management and accountability over public resources. The report shall be prepared and issued by the Minister of Finance and by each of the cantonal ministers of finance.

1. Budget execution planning

Article 4

Ministries and Budget institutions prepare and submit proposed financial plans to the Treasury for execution of the annual Budget. Annual Financial Plans shall be prepared addressing expenditures for each month. Expenditures may be made only under authority of an approved financial plan.

To effect implementation of these provisions, the Ministries of Finance issue with government approval necessary instructions to authorized ministries and Budget institutions.

The Federal Minister of Finance and the Cantonal Ministers of finance inform the authorized ministries and Budget institutions of the approved financial plans.

Article 5

The Treasury shall obtain necessary information from various sources in order to prepare a cash flow plan.

Sources of information shall include, but not be limited to:

- a. Ending cash balances of the TSA for the prior period,
- b. Forecast of all revenues,
- c. Forecast of debt repayments,
- d. Projections of external flows of assistance and borrowing,
- e. Movements in key macroeconomic parameters, and
- f. Forecast of all expenditures.

The Ministers of Finance are authorized to call upon those responsible for revenue collections, as well as other key Budget institutions to advise on cash flow plans.

Article 6

Based on data collected from sources stated in Article 5 of this law Treasuries prepare cash flow plans.

If a deficit is projected, recommendations for necessary corrective steps will be included in the plan.

Cash flow plans are considered by the Ministries of Finance and the governments in making determinations as to the overall levels of approval for financial plans, as called for by Article 4 of this law.

2. Budget Execution

Article 7

Based on the approval of financial plans under Article 4, of this law, authorized ministries and Budget institutions prepare and submit properly authorized transactions pertaining to payment requests, including contracts, commitments, purchase orders, and invoices together with the necessary documentation and the list of priorities, in accordance with Treasury procedures.

The Treasuries perform the following functions in the area of Budget execution:

- a. Review requests from paragraph 1 of this Article,
- b. Propose requests that are in accordance with the plan from Article 4, paragraph 2, and in accordance with available funds and priorities to the Ministries of Finance for their approval,

- c. Execute approved requests for payments,
- d. Inform authorized ministries and Budget institutions about the status of the executed payments and of the available resources from the Budget by classification.

The Budget institutions shall inform vendors and other interested parties of the status of all payments.

3. Centralized Payroll

Article 8

The Treasuries perform the following functions in the area of centralized payroll for the authorized ministries and Budget institutions:

- a. Establish and maintain a centralized payroll system,
- b. Assess the need for funds based on the salary scales and other necessary information provided by Budget institutions, and amount of liabilities for contributions and taxes, and,
- c. Execute salary, contributions and tax payments.

The authorized ministries and Budget institutions are obliged to submit to the Treasury within the corresponding payment cycle evidence of establishment and termination of work relations with employees whose salaries are provided from the budget.

The Ministry of Finance shall prescribe additional procedures.

4. Accounting Methodology

Article 9

The Federal Ministry is responsible to develop and maintain a Chart of Accounts and a standard Budget classification that is used to record and report on financial transactions and financial assets and liabilities for all levels of government and for all public funds.

This Budget Chart of Accounts shall include classifications for assets and liabilities, revenues, and expenditures. The standard Budget classification shall include: the organizational classification, functional classification, economic classification and fund classification. All Cantonal Ministries of Finance and treasuries will use this Budget Chart of Accounts.

The Federal Ministry can develop other classifications, provided it publishes them or otherwise make them

available to the Cantons and to other users of the Budget Chart of Accounts.

The Federal Ministry shall be guided in its work to establish and maintain a uniform system of accounts by public sector international standards of accounting and applicable law.

Article 10

The Treasuries of the Ministries of Finance periodically assess the accounting methodology and recommend the necessary changes.

The cantonal treasuries submit their recommendations to the Federal Treasury, and the Federal Treasury after reviewing these and other changes makes recommendations to the Federal Minister for their adoption.

The Federal Minister is authorized to prescribe additional reports, and the authorized ministries and Budget institutions are obliged to submit them.

5. Financial Reporting

Article 11

Treasuries of the Ministries of Finance and governments publicly issue financial reports in accordance with the Rulebook on financial reporting and final accounts.

The Treasury shall be guided by internationally recognized standards of public sector accounting for the preparation and issuance of financial statements.

The Federal Ministry shall by separate act provide for any additional financial reports.

6. Control of authorized ministries and Budget institutions

Article 12

All Ministers are responsible for accounting and internal control of their ministries, including the Budget institutions and spending units that are under their competence. Responsible persons in ministries and Budget institutions establish and maintain systems of management and accounting control over authorized Budgets, approved financial plans and operating Budgets, revenue and receipt collections, and Budget expenditures and payments.

The Federation Ministry issues guidelines for development and maintenance of systems of management and accounting control. Systems of effective internal control are maintained to ensure fair, open, competitive procurement and purchasing in conformity with the legal regulations, and in that way provide for proper management and safeguarding of property and equipment.

The Federation Ministry promulgates procedures and regulations for internal control.

The Ministries of Finance control the accounting documents of the authorized ministries, Budget institutions and extra budgetary funds. In accordance with Federal Ministry instructions, Budget institutions retain accounting records and documentation in support of contractual obligations, purchase orders, invoices, and payment authorizations. Accounting and other records of financial transactions and events are kept in accordance with Federal Ministry Policy.

The Federal Ministry regulates the manner of control of accounting documents of authorized ministries, Budget institutions and extra budgetary funds.

7. Repayment of Debt, Issuance of New Debt, Issuance of Guarantees and Management of Unused Funds

Article 13

The Federal Treasury implements procedures and makes regular payments of revenues, intended for the external debt servicing, to the Account of the Federation, the Sub-Account for external debt servicing in the CBBiH, in accordance with the Provisions of the External Debt Law of the Federation of Bosnia and Herzegovina ("Official Gazette of the Federation of Bosnia and Herzegovina", no. 41/98) (hereinafter: The External Debt Law). The Federal Treasury regularly informs the Federal Minister regarding the state of the sub-account. In case there are insufficient funds on the account for paying due liabilities of the Federation, the Federal Treasury informs the Federal Minister in order for measures to be taken with the aim of overcoming the current insufficiency of funds intended for the external debt servicing.

The Federal Treasury implements procedures and makes payments for the entire debt of the Federation.

Article 14

The Federal Treasury participates in the preparation of the following:

- (a) all arrangements in regard to issuance of guarantees of the Federation in accordance with the External Debt Law.
- (b) all credit arrangements between Bosnia and Herzegovina and foreign creditors,
- (c) all credit arrangements between the Federation and Bosnia and Herzegovina,
- (d) all credit arrangements between the Federation and foreign creditors,
- (e) all credit arrangements between the Federation and the Republika Srpska,

- (f) all credit arrangements between the Federation and the final beneficiaries of the credit in the Federation.

Article 15

The Federal Treasury prepares all records and individual quarterly reports that relate to the debt and that include:

- (a) the total amount of debt outstanding,
- (b) due dates for all principal and interest repayments that need to be executed,
- (c) payments determined by the loan agreement that are late,
- (d) total amount of guarantees issued by the Federation.

Article 16

The Federal Treasury prepares all records and individual quarterly reports that relate to the loans given to the final beneficiaries that are of the same content as in Article 15 of this Law.

The Treasury develops procedures for the reporting of: the cantons, municipalities, and state-owned enterprises on credit indebtedness with foreign creditors and guarantees received from banks.

Article 17

The Treasury participates in preparing the debt forecasts.

The Treasury maintains all official registers and keeps the original documentation regarding new debt.

Article 18

The Treasury records and invests unused funds from approved projects and monitors the investments in accordance with the loan documents.

The Treasury records and tracks the interest earned from the funds for projects approved for the Federation.

The Treasury prepares all records that relate to the debt, and to the monitoring of all debt activities of the Federation. This includes preparation of, and sending out all notices about payments and payment requests.

Article 19

The Federal Treasury participates in all negotiations regarding issuance of new debt for the Federation.

III GENERAL TREASURY LEDGER SYSTEM

Article 20

The Ministries of Finance are authorized to establish and maintain a General Treasury Ledger System and necessary subsidiary ledger systems in accordance with the Modified Accrual Principle.

Article 21

The General Treasury Ledger System provides for recording transactions and business events, i.e. revenues and expenditures, as well as the state and changes in assets, liabilities and sources of equity and net assets, in accordance with the chart of accounts and on the levels of the regulated classifications (organizational, functional, economic and fund).

Article 22

The Ministries of Finance manage, through the Treasuries' General Ledger System, all transactions of the Federal Budget and cantonal Budgets. The Treasury General Ledger System comprises a complete record of all sources of revenues and expenditures, purchases, obligations, and changes of assets, liabilities and equity. All financial transactions related to the Budget as well as the transactions and all other revenues included in Article 14, Paragraph 2 of the Law will be recorded through the General Ledger of the Treasury, including transactions related to debt and programs financed from foreign or domestic aid.

Article 23

Authorized Ministries and the Budget institutions maintain any subsidiary ledger that may be required by the Federal Ministry (that will exist as a part of General Treasury Ledger System) and all original documentation of transactions in accordance with the provisions of the Regulation on Budget Accounting of the Federation of Bosnia and Herzegovina.

IV MAINTAINING THE TREASURY SINGLE ACCOUNT

1. Establishment of the Treasury Single Account

Article 24

All Federation and cantonal public revenues must be paid into the TSA. The TSA is under the exclusive right of the Ministries of Finance. No other person or institution has the right over these accounts, except if it is determined otherwise in general and individual instructions given by the Ministry of Finance. All taxes paid by the taxpayers are to be paid into the Ministry of Finance Depositary Account. All end of day cash balances in the Depositary Account are to be transferred to the Safekeeping and Investment Account. Overpaid or wrongly paid revenues, which relate to the current fiscal year, shall be refunded from the Depositary Account. The Ministers of Finance promulgate the refund of these revenues by a special rulebook.

The Ministries of Finance open a Treasury Single Account for extra-budgetary funds.

In addition, revenues of Budget institutions, as defined in Article 14, paragraph 2 of the Law on Budgets in the Federation of Bosnia and Herzegovina 1998, ("Official Gazette of the Federation of Bosnia and Herzegovina" no.20/98) must also be deposited and kept in the TSA. However, these revenues will be expended in accordance with special instructions regarding the manner of paying and spending regulated by the Federal Minister of Finance and the Cantonal Ministers of Finance.

Ministries and Budget institutions that have their own source revenues must deposit these own source revenues to the TSA, and the Treasuries maintain records in the General Ledger of the collected revenues according to each of the Budget institutions. All such revenues are determined based on the costs of providing services, and furthermore, the annual budget or other laws must authorize the use of such fees by the collecting ministry or Budget institution.

The Depositary Account, Safekeeping and Investment Account, if held in a commercial bank, the Transaction Accounts and all other commercial banking services necessary for the operation of treasuries and the TSA must be obtained by entering into competitively awarded contracts. Each contract entered into between the banks and the Ministries of Finance must clearly set out the banking services to be provided, the reports required and deadlines for submitting reports, and all fees to be charged by the contracting bank.

Article 25

The Ministries of Finance will establish one Safekeeping and Investment Account. The Ministries of Finance are authorized to open sub-accounts only in special circumstances. The commercial bank selected for the Safekeeping and Investment Account may not hold any other funds in any other accounts for the same ministry account holder. The Safekeeping and Investment Account is to be used for the safekeeping and investment of public revenues pending expenditure. Neither the CBBiH nor the commercial bank selected for the Safekeeping and Investment Account will perform expenditure transactions for the Ministries of Finance, but will transfer funds in this account to Ministries of Finance Transaction Accounts established in commercial banks on a daily, weekly, or monthly basis. Ministries of Finance shall initiate opening one Safekeeping and Investment Account within the period of 30 days, starting from the day of enactment of this law.

Article 26

The Ministries of Finance establish the Transaction Accounts in commercial banks. The Transaction Account is used for paying all expenditures. Balances of such Transaction Accounts are regarded and recorded as an integral part of the TSA. However all balances in the Transaction Accounts are to be swept into the Safekeeping and Investment Account on a daily basis.

Article 27

The Ministries of Finance will open Cash Transaction Accounts only in special cases where it is necessary to transfer funds to a remote location for payment of salaries and for cashier operations.

Balances of such Cash Transaction Accounts are regarded and recorded as an integral part of the TSA.

The TSA are under the exclusive right of the Ministries of Finance. No other person or institution has a right over these accounts unless specific directions given by the ministries of finance stipulate it.

Article 28

The Federal Ministry prepares all procedures and provisions necessary to establish the TSA system. After the TSA system becomes effective, all individual accounts of Budget institutions will be closed and their balances transferred to the TSA.

Article 29

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The Ministries of Finance invest any amounts held in the TSA not immediately needed for Budget purposes in accordance with the provision of Article 13 of the Law. Upon the establishment of the Safekeeping and Investment Account in the CBBiH or the commercial bank, public funds will be invested in accordance with the Accountholders' agreement and regulations of the CBBiH.

All interest earned from investments from paragraph 1 are deposited to the TSA.

2. Receipts and payments through the TSA

Article 30

The authorized ministries and the Budget institutions are responsible for complete and timely payment of all revenues, and fees to the TSA.

No expenditure can be paid from the TSA unless approved by the Budget or other legislation.

The Federal Ministry regulates procedures regarding the payment and receipt of funds to the TSA.

Article 31

On the day this law comes into effect, the Regulation regarding the operations of the Treasury, the system of the general treasury ledger and the manner of maintaining the Treasury Single Account ("Official Gazette of the Federation of Bosnia and Herzegovina", no. 23/00 and 37/01) ceases to be valid.

Cantons shall reconcile their regulations with this law within 30 days from the day this law comes into effect.

Article 32

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