Decision Imposing the Law on the Basis of the Public Broadcasting System and on the Public Broadcasting Service of Bosnia and Herzegovina

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";

Recallingparagraph 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";

Bearing in mind the exhortations of the Peace Implementation Council in the Luxembourg Declaration of 9 June 1998, drawing the parties' attention to the importance of a Public Broadcasting System in Bosnia and Herzegovina and urging them, in order to achieve such an objective, to cooperate with the High Representative in the restructuring of Radio-Television of Bosnia and Herzegovina;

Noting that since its inception, the Peace Implementation Council has consistently called for the creation and adoption of laws and regulations governing the media which are fully consistent with relevant international agreements and recalling further that the Peace Implementation Council defined the requirements of these laws in the Madrid Declaration, dated 16 December 1998, wherein it specifically called for the adoption of legislation in both Entities that enshrines the principles of editorial independence, religious tolerance and financial transparency in all media sponsored by public funds;

Recalling that in line with the above exhortations and as a result of lack of progress on the part of local authorities to adopt the appropriate public service broadcasting legislation, the High Representative issued the Decision on the Restructuring of the Public Broadcasting System in Bosnia and Herzegovina on 30 July 1999 establishing the public broadcasting system and two of its three component public broadcasters, the Public Broadcasting Service of Bosnia and Herzegovina and the Radio-Television of the Federation of Bosnia and Herzegovina and imposing the Law on Radio-Television of the Federation of Bosnia and Herzegovina;

Recalling further that the said Decision acknowledged Radio-Television of Republika Srpska as the public broadcaster for Republika Srpska;

Noting that, in the said Decision, the High Representative called on all those concerned to cooperate with the Founding

Board of the Public Broadcasting Service of Bosnia and Herzegovina in the drafting of legislation;

Recalling that the Peace Implementation Council, in the Brussels Declaration of 23/24 May 2000, noted the need for citizens to be well informed in order to be active participants in shaping their country and called for a public service broadcasting sector with strong and viable competitors that would help ensure the public's right to know and stimulate vigorous public debate and a culture where public opinion serves as a check and balance on institutions;

Noting that as a result of the parties' failure to meet their obligations to create and adopt appropriate public service broadcasting legislation, despite agreement to the contrary, the High Representative continued the restructuring process by issuing a Second Decision on Restructuring the Public Broadcasting System in Bosnia and Herzegovina dated 23 October 2000;

Observing that the Steering Board of the Peace Implementation Council in its Communiqué of 30 October 2001 recognized the launch of Federation Radio-Television as an important step in implementing the High Representative's Second Decision on Restructuring the Public Broadcasting System in Bosnia and Herzegovina to develop a state level public broadcasting service for all the citizens of Bosnia and Herzegovina;

Further observing that in its Communiqué, dated 7 May 2002, the Steering Board of the Peace Implementation Council reiterated its support for the High Representative's strategy to restructure the public broadcasting system in order to develop state level public broadcasting for all citizens of Bosnia and Herzegovina. The Steering Board acknowledged the need for effective legislation to make the public broadcasting system independent and sustainable in line with Council of Europe standards, noting that this is also a key requirement of the European Union Road Map;

Recalling that in the same Communiqué the Steering Board also noted the expression of support by the Alliance for Change for the current public service broadcasting draft legislation and exhorted the High Representative and the Council of Ministers of Bosnia and Herzegovina to use every effort to ensure as soon as possible the implementation of a public service broadcasting law according to European standards;

Recalling the following progress of the authorities of Bosnia and Herzegovina on the creation and adoption of public service broadcasting legislation:

On 11 June 1998, the Presidency of Bosnia and Herzegovina, expressing a commitment to the establishment of a public radio and television service for the whole of Bosnia and Herzegovina, adopted a Memorandum of Understanding that called for the appointment of an interim Board of Governors for Radio-Television of Bosnia and Herzegovina who would provide proposals for the establishment of such a country-wide broadcasting service for Bosnia and Herzegovina. The Memorandum of Understanding also stipulated that these new structures were to be in place by the end of 1998;

The Founding Board of the Public Broadcasting Service of Bosnia and Herzegovina created a public service broadcasting draft law in 2001 and members of the Founding Board of the Public Broadcasting Service of Bosnia and Herzegovina, in conjunction with representatives appointed by the Council of Ministers and the Office of the High Representative, formed a joint working group to further develop the draft law in accordance with European standards;

Significant efforts were made by the joint working group, which created such draft law and which subsequently presented it to the Council of Ministers of Bosnia and Herzegovina for its consideration;

The Council of Ministers of Bosnia and Herzegovina discussed

the draft law at its session on 18 April 2002 and forwarded it for to its Legal Committee for harmonization;

The Legal Committee returned the draft with positive comments and the Council of Ministers of Bosnia and Herzegovina adopted the Draft on 29th April 2002, with the caveat that the joint working group address outstanding issues;

The Council of Ministers of Bosnia and Herzegovina placed the draft law on the agenda of its session on 9 May 2002, but subsequently withdrew the draft law due to substantial objection and intervention from the Government of Republika Srpska;

The Council of Ministers of Bosnia and Herzegovina discussed the draft law at a coordination meeting on 15 May 2002 and failed to reach political agreement with Republika Srpska, which resulted in the draft law again being withdrawn from the agenda of the Council of Ministers of Bosnia and Herzegovina for its 16 May 2002 session;

Noting that the Public Broadcasting System functions as an integral unit, with the laws on Radio-Television of the Federation of Bosnia and Herzegovina and Radio-Television of Republika Srpska supporting and operating in harmony with the Law on the Basis of the Public Broadcasting System and on the Public Broadcasting Service of Bosnia and Herzegovina;

Having considered and borne in mind the totality of the matters aforesaid, I hereby issue the following:

DECISION

1. Imposing the *Law on the Basis of the Public Broadcasting System and on the Public Broadcasting Service of Bosnia and Herzegovina*, as hereinafter set out.

2. Unless specifically varied by this Decision or the

Law enacted hereby, previous Decisions of the High Representative on media shall continue in force unless or until the High Representative shall decide otherwise.

3. The Law which follows shall enter into force pursuant to Article 76 thereof but on an interim basis until such time as the Parliamentary Assembly of Bosnia and Herzegovina adopts the same in due form, without amendment and with no conditions attached.

4. This Decision shall come into force forthwith and shall be published without delay in the Official Gazette of Bosnia and Herzegovina, the Official Gazette of the Federation of Bosnia and Herzegovina, the Official Gazette of Republika Srpska and the Official Gazette of the District of Brcko.

Law on the Basis of the Public Broadcasting System and on the Public Broadcasting Service of Bosnia and Herzegovina

Sarajevo, 23 May 2002

Wolfgang Petritsch

High Representative