

Decisions on the restructuring of the Public Broadcasting System in BiH and on freedom of information and decriminalisation of libel and defamation

Members of the Presidency of BiH
Chairs of the Council of Ministers of BiH
Chairman of the House of Representatives of BiH
Chairman of the House of Peoples of BiH
President of the CoCo of BiH
President of the Federation of BiH
TO: Prime Minister of the Federation of BiH
Chairman of the Federation House of Representatives
Chairman of the Federation House of Peoples
President of the CoCo of Federation of BiH
President of the Republika Srpska
Prime Minister of the Republika Srpska
Chairman of the Republika Srpska National Assembly
President of the CoCo of the Republika Srpska

Dear gentlemen,

Although the Constitution of Bosnia and Herzegovina, as contained in Annex 4 to the General Agreement for Peace in Bosnia and Herzegovina (GFAP) provides for full recognition of Freedom of Expression as a fundamental human right, protected in accordance with Article 10 of the European Convention on Human Rights and other relevant international instruments, the numerous exhortations contained in Peace Implementation Council documents (Sintra, Bonn, Luxembourg, Madrid) concerning the freedom of the media are a clear signal of the continuing lack of clarity in the approach of the legal system of Bosnia and Herzegovina to vital matters, such as public broadcasting, freedom of journalistic inquiry and the public's right to know about the work of governmental bodies.

Notwithstanding the considerable efforts of my staff, the leadership and authorities of both Bosnia and Herzegovina and the two Entities have for the most part failed to comply with their commitments in regard to such matters. This represents a major obstacle to the achievement of democratic development in the country, and a gross abrogation of responsibility which has resulted in a substantial deprivation of the constitutional rights all the citizens of Bosnia and Herzegovina and a basic disregard of their informational, cultural and linguistic needs.

The refusal of the relevant political actors to enact the necessary measures, which have already been the subject of extensive public discussion, can no longer be tolerated. For this reason, I have resolved myself to use my powers in order to provisionally bring into force two series of legislative and other measures aiming at advancing the enjoyment of freedom of expression by all persons in Bosnia and Herzegovina without discrimination on any ground.

1. DECISION ON THE RESTRUCTURING OF THE PUBLIC BROADCASTING SYSTEM IN BOSNIA AND HERZEGOVINA

The first set of measures, embodied in my Decision on Restructuring the Public Broadcasting System in Bosnia and Herzegovina aims to secure access to the broadcasting media by citizens of Bosnia and Herzegovina, in line with the constitutional framework, the exhortations of the Peace Implementation Council and the commitments of the parties.

The legal and constitutional framework for radio/television broadcasting

It is an accepted principle in all established democracies that, due to the limited availability of spectrum

frequencies, the public monopoly over their allocation for broadcasting purposes is the key for providing the widest possible number of opinions to be represented in the broadcasting media. In Bosnia and Herzegovina, such a monopoly is one of the central authorities of the State, regulated by the Telecommunications Law of Bosnia and Herzegovina passed by the BiH Parliamentary Assembly, Articles 1.(2), 4.(1).(c), and 6.(2).(c) of which explicitly provide for the allocation of frequencies for broadcasting purposes and the power of the BiH Telecommunications Agency to set the relevant conditions. Pending the establishment of the Telecommunications Agency, this role is presently carried out by the Independent Media Commission (IMC).

Beside that, Art. III.1.(h) of the Constitution of Bosnia and Herzegovina clearly authorizes the institutions of BiH to establish and operate common and international communication facilities, including radio/television broadcasting facilities. As for the Entities, Art. 3 of Annex 9 to the General Framework Agreement for Peace in Bosnia and Herzegovina, in establishing the possibility for the institutions of both Bosnia and Herzegovina and the Entities to establish and operate communication facilities, recognizes them the possibility to establish and operate, separately or jointly, their own radio/television stations, subject to licensing by the competent authorities of BiH (presently the IMC on their behalf).

The exhortations of the Peace Implementation Council

In line with the above, and particularly in view of the prominent role reserved under the GFAP to public service radio/television, Paragraph 63 of the Declaration following the 9 June 1998 Ministerial meeting of the Peace Implementation Council (PIC) Steering Board in Luxembourg stated the following:

The Steering Board recognizes the importance of a Public Broadcasting System in Bosnia and Herzegovina and in this context urges the High Representative swiftly to complete the restructuring of RTV BiH, including the integration of the transmission system. The Steering Board deplores the stalling tactics deployed by the authorities and welcomes the High Representative's intention to use his authority if the deadline is not met. ... the High Representative is requested to follow through on his plans to establish a countrywide public broadcasting system with the cooperation of both SRT and RTV BiH.

On 16 December 1998, the Peace Implementation Council reiterated its concerns in the Madrid Declaration of 16 December 1998, Chapter V, Paragraph 21 of which required to achieve

the adoption of legislation in both Entities which enshrines the principles of editorial independence, religious tolerance and financial transparency in all media sponsored by public funds. Such legislation must contain provisions designed to prevent any political party from exerting significant control over public broadcasting and to ensure public broadcasters attempt to address the interests of all the constituent peoples in current affairs programming;

as well as the establishment of a

Public Corporation for Broadcasting and Transmission incorporating the public transmission and relay systems in both Entities.

Also, in Chapter V, Paragraph 24 of the Madrid Declaration the PIC called for

the establishment of an integrated Federation television network fully enfranchising all communities and supported by transparent funding. The High Representative shall appoint an international supervisor to oversee the establishment of the network;

Finally, in the same Paragraph of the Madrid Declaration explicitly demanded

that Croatian Radio Television (HRT) in Croatia and Radio Television Serbia (RTS) in FRY respect international

norms of broadcasting, the laws of BiH and the IMC Code of Practice and subsequent rulings. Any access to the media market in BiH must be arranged through proper business agreements in line with BiH law. The Council reminds signatories of the Peace Agreement that the High Representative retains the authority to curtail or suspend any media within BiH which threatens the implementation of the Peace Agreement;

Needless to say, none of the above listed objectives have been met within the time frame envisaged by the various agreements entered into by the parties.

The domestic legislative processes and the inability of the parties to reach an agreement

On 13 February 1998, the Government of the Republika Srpska had signed an agreement which established a set of interim arrangements for the restructuring of Srpska Radio Televizija (SRT) in accordance with European standards of Public Service Broadcasting. On 17 August 1998 a further Memorandum of Understanding (MOU) was signed by the RS Government which provided a mechanism for transparent and reliable funding for SRT. The interim arrangements and MOU were to remain in force until such time as they could be embodied in a new law for SRT, which I instructed the RS Government in writing, was to be adopted by 31 December 1998. This still has not been done.

On 11 June 1998 an MOU was approved by the Presidency of Bosnia and Herzegovina pursuant to the procedure in Article V.2.(c) of the Constitution of Bosnia and Herzegovina. The main elements of this MOU were firstly; a commitment to the reshaping of RTV BiH so as to provide for the creation of a public radio and television service for both the whole of BiH and the Federation. The MOU dealt therefore with the appointment of an interim board of governors for RTV BiH who would provide proposals for the establishment of a Public Broadcasting Corporation for BiH and advocated in favor of the creation of Federation RTV through the development and adoption of a new law. The MOU also stipulated that these new structures were to be in place by the end of 1998. This has not been achieved.

The Interim Board of Governors of RTV BiH, after extensive consultations with media professionals and political representatives, prepared a draft Law on a Federation Radio-Television service, reviewed by an expert group named by the Federation Government. The latter forwarded the draft to the House of Representatives, which supported it but called on the Government to resolve remaining disputes. At the Federation Forum held on 11 May 1999, the Prime Minister and Deputy Prime Minister agreed on a compromise text on disputed issues, subsequently endorsed by the Government at large. Nevertheless, the House of Representatives adopted the law with amendments in contradiction with the Government's proposal, which were opposed by the majority of the Croat deputies. As High Representative, I issued to the House of Peoples – which had previously failed to meet and discuss the proposal – a deadline of 21 July 1999 to vote on the proposed law. Following the session of the House of Peoples on 21 July, it is clear that the two Houses are unable to reach agreement on a final text of the law.

My decision to impose an interim solution

Although the parties have been unable to reach an agreement on the details, the above mentioned events clearly display widespread support for the general reforming of the public broadcasting system in Bosnia and Herzegovina in accordance with best international practice.

Concerning the reform of SRT, the Government of the Republika Srpska clearly committed itself to such an objective by signing the MOU of 13 February 1998, containing clear principles to guide the necessary legislative process. Concerning the creation of a Federation Radio-Television service, the objective is clearly supported by a vast majority of the Federation political forces, as reflected in the legislative process and in the substantial public discussion on the topic since the signing of the MOU of 11 June 1998. Within this debate, the Government's text, which was supported by representatives of the entity's constituent peoples and on which all political parties had an opportunity to comment, enjoyed the widest consensus. Finally, concerning the creation of a State-level television broadcaster, the MOU of 11 June 1998 clearly stated such an objective. The political leadership thus far has been unable to realise that objective.

Taking this into account, and considering the increasing urgency of a comprehensive reform of the public broadcasting system in order to further the political and economic development of Bosnia and Herzegovina, I decided to use the authority vested in me under Annex 10 of the GFAP to remedy this situation by issuing interim measures which will bring Public Broadcasting into line with the GFAP, the commitments of the parties, the exhortations of the PIC and international standards in general. These measures will:

- Establish a new legislative framework for the operation of a Public Radio Television of Bosnia and Herzegovina and a FBiH Radio-Television (both resulting from the liquidation of RTV BiH), as well as require the establishment of a public service broadcaster for the Republika Srpska (as a reformed version of SRT), in agreement with the GFAP and the highest international standards
- Establish principles for the transparent and adequate funding of public broadcasters in Bosnia and Herzegovina, through well-targeted users' fees and other means
- Describe a process for the liquidation of RTV BiH, the settling of any residual claim in respect of SRT and the enhancement of cooperation among public television broadcasters in BiH in view of the establishment of a country-wide public corporation dealing with the joint management of transmission facilities.
- Make additional stipulations in order to rationalise and legalise the activities of foreign radio/television broadcasters on the territory of Bosnia and Herzegovina, with particular focus on the present activities of Croatian Radio Television (HRT).

The Decision having been framed in the mutual interest of all parties, I trust it will be complied with in a full and timely manner. Otherwise, I reserve a further exercise of the powers vested in the High Representative in order to address further problems and obstructions.

2. DECISION ON FREEDOM OF INFORMATION AND DECRIMINALISATION OF LIBEL AND DEFAMATION

There is cause for concern that the full enjoyment of the fundamental human right of Freedom of Expression, as enshrined in the Constitution of BiH, remains under threat due to legal, judicial and other obstacles. In particular, the present use of the current provisions of Entity legislation concerning Libel and Defamation poses a serious threat to journalistic inquiry.

The exhortations of the Peace Implementation Council regarding media freedom and the principle of transparency in the work of governmental bodies have underlined this problem. Specifically Chapter V, Paragraph 24 of the Madrid PIC declaration called for the

adoption of Freedom of Information legislation in BiH which would grant the public the right of access to information held by governmental authorities.

In addition, the Madrid declaration stated the necessity of the

adoption of legislation to protect journalists' freedom of expression and movement.

However, authorities at the State and Entity levels have thus far failed to adopt legislation addressing these matters.

Therefore, under the authority vested in me under Annex 10 of the GFAP, I intend to remedy this situation by issuing an additional decision suspending the applicability of imprisonment as a sanction under the provisions concerning Libel and Defamation, requiring the regulation of the same by new legislation, and providing the competent authorities of the State and the Entities with a deadline for the adoption of new laws on Freedom of Information.

Carlos Westendorp
High Representative

In the exercise of the powers vested in me by Article 5 of Annex 10 to the General Agreement for Peace (hereafter: GFAP), according to which the High Representative is the final authority in theater regarding interpretation of his mandate; and considering in particular Art. II.1.(d) of the same Agreement, in terms of which

the High Representative shall have the power to facilitate, as he judges necessary, the resolution of any difficulties arising in connection with civilian implementation; recalling the interpretation of such a power given in paragraph XI.2 of the Conclusions of the Peace Implementation Conference held in Bonn the 10 December 1997, particularly sub-paragraph (b) thereof, in terms of which the High Representative is entitled to make binding decisions, as he judges necessary, on the adoption of measures aiming at ensuring implementation of the GFAP throughout Bosnia and Herzegovina (hereafter: BiH), including interim measures to take effect when parties are unable to reach agreement;

Considering that, subject to the responsibility of the institutions of Bosnia and Herzegovina for the allocation of frequencies for broadcasting purposes as specified by the Telecommunications Law of Bosnia and Herzegovina, Art. III.1.(h) of Annex 4, and Art. 3 of Annex 9 to the General Framework Agreement for Peace in Bosnia and Herzegovina clearly establish the possibility for the institutions of both Bosnia and Herzegovina and the Entities to establish and operate, individually or jointly, communication facilities in the form of public radio/television companies;

Bearing in mind the exhortations of the Peace Implementation Council (hereafter: PIC) in Paragraph 63 of 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 RTV BiH and the integration of the transmission system; also reminding the further PIC's exhortations in Chapter V, Paragraphs 21 and 24 of the Madrid Declaration of 16 December 1998 restating both objectives with particular focus on the establishment of an integrated Federation television network fully enfranchising all communities and supported by transparent funding, and the establishment of a public corporation for broadcasting and transmission. Further reminding that in the above mentioned Paragraph 24, the PIC drew the attention of all parties to the GFAP to the need for foreign broadcasters such as Croatian Radio Television (hereafter: HRT) and Radio Television Serbia to regularize their activities in BiH according to applicable law.

Noting that in line with the above exhortations, the Government of the Republika Srpska (hereafter: RS) signed on 13 February 1998 an agreement which established a set of interim arrangements for the restructuring of Srpska Radio Televizija (hereafter: SRT) in accordance with European standards of Public Service Broadcasting, supplemented by a further Memorandum of Understanding (hereafter: MoU) on 17 August 1998 committing the RS Government to a mechanism for transparent and reliable funding for SRT. The interim arrangements and MoU were to remain in force until such time as they could be embodied in a new law for SRT which, I instructed the RS Government in writing, was to be adopted by 31 December 1998. Also noting that a different MoU was adopted on 11 June 1998 by the Presidency of BiH, expressing a commitment to the establishment of a public radio and television service for the whole of BiH. The MoU called for the appointment of an interim Board of Governors for RTV BiH who would provide proposals for the establishment of such a country-wide broadcasting service for BiH, including an integrated transmission network, and proposals for the creation of a public broadcaster for the Federation BiH. The MoU also stipulated that these new structures were to be in place by the end of 1998. Legislation establishing a Federation service, based on proposals from the Board of Governors of RTV BiH, was debated by both chambers of the Federation Parliament, which were unable to agree on a final text. Therefore, none of the above objectives have been fulfilled.

This all considered, being borne in mind and noted, I hereby issue the following

DECISION

on Restructuring the Public Broadcasting System in Bosnia and Herzegovina

Article 1

Establishment of Public Broadcasters

By the present Decision, the Public Broadcasting System in Bosnia and Herzegovina is hereby established as consisting of three Public Broadcasters, as hereafter specified.

- A. The Public Broadcasting Service of Bosnia and Herzegovina (hereafter: PBS BiH) is hereby established, according to Annex I of the present Decision forming an integral part thereof. The PBS BiH shall be a public company of the State of Bosnia and Herzegovina engaged in radio and television broadcasting. Additionally, in order to:
1. allow the High Representative to appoint the Members of the transitional bodies of PBS BiH, the Presidency of Bosnia and Herzegovina and the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina are hereby requested to meet, without delay, their obligations according to Annex I of this Decision.
 2. allow PBS BiH to actually start broadcasting as soon as practical, and in the exercise of its right as a State public broadcaster to obtain a license from IMC, PBS BiH shall apply for such a license. If requested in the application, the IMC shall reserve for PBS BiH access to country-wide frequencies. IMC shall review how PBS BiH programming shall be delivered, through the partial use of frequencies already assigned to Entity Public Broadcasters or otherwise.
 3. terminate as soon as possible the validity of the interim measure hereby enacted, the High Representative calls on all those concerned to cooperate with the Founding Board of the PBS BiH in the drafting of legislation to be submitted to the Council of Ministers of BiH.
- C. The Radio-Television of the Federation of Bosnia and Herzegovina (hereafter: RTV FBiH) is hereby established, according to Annex II of the present Decision forming an integral part hereof. The RTV FBiH shall be a public company of the Federation of Bosnia and Herzegovina engaged in radio and television broadcasting. Additionally, in order to:
1. allow the swift implementation of this Decision, the Government and the Parliament of the Federation of Bosnia and Herzegovina are hereby requested to fulfill without delay their obligations under the Law provisionally enacted as Annex II of this Decision.
 2. allow RTV FBiH to actually start broadcasting as soon as practical, RTV FBiH shall apply for a broadcasting license from the Independent Media Commission, which shall take in due consideration the applicant's identity as a public broadcaster.
 3. terminate as soon as possible the validity of the interim measure hereby enacted, the Parliament of the Federation of Bosnia and Herzegovina is hereby requested to pass as soon as possible the text of the Law on RTV FBiH hereby provisionally enacted as Annex III of this Decision. Amendments or additions, although generally encouraged, shall be agreed to by the High Representative in advance.
- E. By 15th August 1999, the National Assembly of RS is hereby requested to pass the text of a Law, as it shall be forwarded to it by in due time by the Government of RS, establishing one public broadcaster for RS which will for all legal purposes succeed to SRT. The contents of the Law shall in particular:
1. respect internationally recognized standards of public service broadcasting.
 2. conform to the "Interim Arrangements for the Management of SRT" of 13 February 1998.
 3. provide for an appropriate mechanism through which subscription fees may be collected, including through arrangements with the RS electric company.

Article 2

Financing of Public Broadcasters

The financing of public broadcasters in Bosnia and Herzegovina shall be supported through a mixed funding system which may include users' fees, appropriations from the general public budget, and revenue resulting from advertising.

A. Concerning the payment of users' fees:

1. By 1 September 1999 the public electric companies in the FBiH and RS are requested to conclude an arrangement with respectively RTV FBiH and SRT (or its legal successor), for

the raising of subscription fees and their transfer to bank accounts under international supervision.

2. By the same date, RTV FBiH shall pay to the PBS BiH an amount equal to the 2/3, and RTV RS an amount equal to 1/3 of the PBS BiH interim budget for the share necessary to sustain its compulsory minimum programming (1 hour). Additional contributions from Entity Public Broadcasters to the PBS BiH interim budget shall be made in the same proportions according to contractual arrangements to be approved by the IMC, within which Entity Public Broadcasters will receive international programming and other benefits in change from the PBS BiH . The above arrangement shall obtain until the coming into force of the Law on the Public Broadcasting Service of BiH, which may establish a method for collecting PBS BiH fees.
- C. Concerning appropriations from the general public budget, Public Broadcasters in Bosnia and Herzegovina shall be allowed to benefit from additional budget support as might be granted by the respective legislature, provided this is done with the consent of IMC or its successor in order to preserve the impartiality of broadcasting and its role as a public service.
- D. Concerning revenue resulting from advertising, Public Broadcasters in Bosnia and Herzegovina are permitted to seek additional revenue from advertising, provided this is done consistently with their role as a public service, with the texts provisionally enacted by this Decision and in accordance with IMC regulations and rulings.

Article 3

Settling of Property and Financial Claims Among Public Broadcasters

The Interim Board of Governors of the RTV BiH is hereby dissolved as of 6 August 1999, having successfully fulfilled its mandate under the MOU on RTV BiH of 11 June 1998. Consequently, all assets and liabilities of RTV BiH shall be transferred to the Public Broadcasters established under Article 1 of this Decision, until its complete dissolution as a legal subject, according to the following procedure.

- A. In order to direct the dismantling of RTV BiH, the High Representative shall, in consultation with IMC, appoint a Transfer Agent, and an Expert Team as to provide the Transfer Agent with relevant technical assistance. The Transfer Agent and the Expert Team shall consult with the representatives of the PBS BiH , the RTV FBiH and the RTV RS as the concerned parties (hereafter: the parties) in the dismantling process.
- B. As soon as practicable, and in any case not later than 1 October 1999, the Transfer Agent shall as a temporary custodial measure make a substantial share of control over the programming and broadcasting capacity of RTV BiH available to RTV FBiH and a lesser share to PBS BiH . Both RTV FBiH and PBS BiH shall be entitled to use the programming and broadcasting capacity under their temporary custody pending the dissolution procedure. In no way shall such a measure be regarded as prejudging the outcome of the dissolution procedure as detailed in letters (C) to (E) below.
- C. Not later than 1 November 1999 the Transfer Agent, assisted by the Expert Team, shall provide a concrete description of the liabilities and assets of RTV BiH to be apportioned among and transferred to the parties.
- D. Not later than 1 December 1999, the parties shall conclude with the Transfer Agent, assisted by the Expert Team, appropriate agreements for the apportionment and transfer of the RTV BiH liabilities and assets, including any compensation as might be stipulated as part of the apportionment, and the procedure and timing of the transfer. The arrangements, which shall be submitted to the IMC for approval before they are carried out, shall take into account:
 1. that all Public Broadcasters shall emerge from the process as technically viable radio-

television enterprises.

2. that credits by public legal persons shall be as much as possible written off.

3. the objective of a common transmission system for the entire territory of BiH.

F. Not later than 1 January 2000, the parties shall complete the execution of the approved transfer arrangements, and provide certification of such completion to IMC.

Article 4

Additional Measures Concerning the Activities of Foreign Broadcasters in BiH (HRT)

The unlicensed re-broadcasting of programs of foreign broadcasters on the territory of Bosnia and Herzegovina is illegal, and should therefore be immediately terminated. As a consequence:

- A. the HRT shall immediately cease its activities in Bosnia and Herzegovina effective 1 October 1999, on which date:
 - 1. the frequencies currently used for the re-broadcasting of HRT programs in Bosnia and Herzegovina shall be made fully available to the IMC, who will reassign them in line with the objective of ensuring adequate and equitable use of the frequency spectrum as necessary for public broadcasting activities, with special consideration of the needs of RTV FBiH.
 - 2. the ownership rights over the transmitting facilities currently used for the re-broadcasting of HRT programs in Bosnia and Herzegovina shall be thereby placed under the legal custody of the Transfer Agent, who may request their seizure in order to reassign them in line with the objective of ensuring adequate and equitable access to transmission facilities as necessary for public broadcasting activities, with special consideration of the needs of RTV FBiH.
- C. notwithstanding the above, in the interest of all citizens of BiH to enjoy access to quality programs and of the Croat citizens of BiH to have access to programs in their own language, HRT is hereby encouraged to make new arrangements allowing its programs to be legally re-broadcast on the territory of BiH. The Office of the High Representative shall supervise the making of such arrangements, which must be finally approved and licensed by the IMC.

Sarajevo, 30 July 1999

Carlos Westendorp
High Representative

ANNEX I

DECISION ON THE PUBLIC RADIO TELEVISION OF BOSNIA AND HERZEGOVINE

- Part I - PRINCIPLES

Article 1

The Public Radio-Television Service of Bosnia and Herzegovina (hereafter: PBS BiH) is hereby established as a public company engaged in radio and television broadcasting to the whole territory of Bosnia and Herzegovina.

Article 2

The PBS BiH shall produce and broadcast a minimum of at least one hour of current affairs programming per day on radio and television, focusing on the activities and information related to the institutions of Bosnia and Herzegovina and inter-Entity issues, among which a unified news service serving the whole country.

Article 3

The principle of equality of the three languages and the two alphabets of the constituent peoples of Bosnia and Herzegovina shall apply to PBS BiH programming. The PBS BiH shall also facilitate access to its programming of persons belonging to minority national groups other than the three constituent peoples, and other citizens of Bosnia and Herzegovina.

Article 4

The PBS BiH shall represent Bosnia and Herzegovina in international broadcast organizations, and shall apply for membership in the European Broadcasting Union (EBU).

Article 5

The PBS BiH shall lead coordination among public broadcasters on the territory of Bosnia and Herzegovina on issues of mutual interest, including programming and technical development. In particular, the PBS BiH shall arrange for the purchase of broadcast rights for foreign programs, oversee the Eurovision exchange of news and sport programming through a unique technical point and organize any appropriate joint coverage of events of significant local and international events.

Article 6

The PBS BiH shall cooperate with the Commission on Public Corporations and with other public broadcasters in Bosnia and Herzegovina with a view to establish a joint management of public broadcasting facilities over the entire territory of Bosnia and Herzegovina.

Article 7

The composition of the administration and editorial management of the PBS BiH, shall be generally representative of the peoples of Bosnia and Herzegovina, and include persons belonging to minority national groups other than the three constituent peoples, and other citizens of Bosnia and Herzegovina.

- Part II -

TRANSITIONAL ARRANGEMENTS

Article 9

Until finally established by a Law of the Parliamentary Assembly of Bosnia and Herzegovina, the PBS BiH shall function according to the transitional arrangements detailed in this Section.

During the transitional period, the organs of the PBS BiH shall consist of the Founding Committee, the Advisory Council for Programming and the Executive Committee of the Founding Committee.

Article 10

There shall be a Founding Board of nine members, as the main decision-making body of PBS BiH . The Members of the Founding Board shall be nominated as follows.

1. The High Representative shall directly appoint six members of the Founding Board. Three of them – which shall not be citizens of Bosnia and Herzegovina or its neighboring countries – shall consist of one representative of the Office of the High Representative, one representative of the European Broadcasting Union, and one international Supervisor with media expertise. The three other Members shall be citizens of Bosnia and Herzegovina – one from each constituent people – and hold relevant professional or commercial experience.
2. The High Representative shall appoint three more Members of the Founding Board upon nomination by the Presidency of Bosnia and Herzegovina, one from each constituent people. Within 30 days of the entry into force of this Decision, each Member of the Presidency shall offer nominations of candidates with appropriate professional or commercial expertise, who shall hold no elective or appointed political office.

Article 11

The Founding Board shall be presided over by the International Supervisor who, in consultation with the other Members, shall establish the agenda. In making decisions, the Founding Board shall proceed as follows:

1. The minimum quorum for any decision to be taken by the Founding Board consists of five Members, including the International Supervisor and at least one Member from each constituent people.
2. Every effort shall be made by the Members of the Founding Board to take all decisions by consensus. If consensus cannot be reached, the International Supervisor might call for a vote by qualified majority to take place. A qualified majority consists of a majority of all Members present and voting, which includes the vote of the International Supervisor.

Article 12

1. There shall be an Advisory Council for Programming, as a consultative organ assisting the Founding Board in ensuring that its programming production and coordination activities are in compliance with the letter and spirit of the GFAP and the best international practice.
2. The Advisory Council for Programming shall consist of 15 persons to be nominated by the High Representative in consultation with the House of Representatives of Bosnia and Herzegovina. The composition of the Advisory Council for Programming shall reflect party pluralism and the diversity of civil society in BiH.
3. All recommendations of the Advisory Council for Programming, including the election of its President, shall be taken by a simple majority vote, provided that dissenting members can request their dissent to be conveyed to the Founding Board in writing as a part of the recommendation.

Article 13

1. There shall be an Executive Committee of the Founding Board, as the organ in charge of executing the decisions of the Founding Board and maintaining contacts with the Advisory Council for Programming.

2. The Executive Committee of the Founding Board shall consist of the International Supervisor and of the three Members from Bosnia and Herzegovina which are directly nominated by the High Representative.
3. The International Supervisor shall direct the work of the Executive Committee of the Founding Board, distributing task among and taking all decisions in consultation with the other Members of the same organ.

Article 14

All members of the transitional organs of the PBS BiH shall have a mandate of six months, within which the following obligations shall be fulfilled:

1. Not later than 15 days from becoming operational, the Founding Board shall determine a budget, appoint management and other staff to fulfill the stated mission of PBS BiH. The Founding Board shall have the power to dismiss existing RTV BiH staff as necessary.
2. Not later than 30 days from its establishment, the Founding Board shall adopt an interim Charter upholding the principles of editorial independence, financial transparency and ethnic and religious tolerance, in accordance with the highest international standards.
3. Not later than 1 January 2000, the Executive Committee of the Founding Board shall submit to the Council of Ministers of Bosnia and Herzegovina a draft Law on the Public Radio-Television Service of Bosnia and Herzegovina approved by the Founding Board and prepared in consultation with international experts. The draft Law shall respect the principles set down in the first Part of this Decision.

ANNEX II

LAW ON THE RADIO-TELEVISION OF THE FEDERATION OF BOSNIA AND HERZEGOVINA

I - BASIC PROVISIONS

Article 1

This Law shall regulate the issues in relation to the foundation and organisation of the Radio-Television of the Federation of Bosnia and Herzegovina (hereinafter: The RTV FBiH), its company name, activities, bodies of the RTV FBiH, programming, marketing principles and sponsorship, the manner of financing and other issues related to its activities.

Article 2

The Law on Business Companies shall be applied to the performance and activities of the RTV FBiH unless otherwise specified in this Law.

The RTV FBiH shall be obliged to comply fully with "The Code for Editing Television and Radio Programmes" as well as with other pieces of legislation issued by the Independent Media Commission (IMC), in accordance with this Law, other regulations, Statute and other general enactments of the RTV FBiH.

II - FOUNDATION OF RTV FBiH

Article 3

With a view to exercising the rights to information of constituent peoples together with the Others and those of the citizens of Bosnia and Herzegovina (hereinafter: the Federation), as well as to meeting their cultural, educational and other needs, the Bosnia and Herzegovina Federation Parliament (hereinafter: the Parliament), shall establish the Limited Liability Company for the Production, Transmission and Broadcasting of the programmes of RTV FBiH.

The RTV FBiH shall not be a direct member of the European Broadcasting Union (EBU) but it shall cooperate with the institution of Bosnia and Herzegovina carrying out the relevant activities.

Article 4

The RTV FBiH Company name shall be:

“The Radio-Television of the Federation of Bosnia and Herzegovina” – Limited Liability Company.

The abbreviated name of the Company shall be: RTV FBiH d.o.o. [Lt.d.] Sarajevo.

The seat of the RTV FBiH shall be in Sarajevo.

Article 5

The initial capital of the RTV FBiH shall be 100,000 KM in cash and shall be provided from the Federation Budget.

Article 6

The activities with which the RTV FBiH fulfils the tasks from Article 3, paragraph 1 of this Law, shall be:

1. Preparation, production, reproduction, broadcast and transmission of its own radio and television programmes intended for the public within the Federation, Bosnia and Herzegovina and the world.
2. Transmission and broadcast of radio and television programmes of other in-country and world's radio-television stations for the public within the FBiH.
3. Participation in the joint programmes of the radio and television stations within Bosnia and Herzegovina and the world, in co-operation with the BiH Radio-Television.
4. Archiving phono-graphic and video-graphic records.

Other activities may also be defined by the RTV FBiH Statutes provided that they are not in contravention of the basic activities of the RTV FBiH as defined by this Law.

Article 7

The RTV FBiH may create and develop its own programme transmission and broadcasting network.

Article 8

The RTV FBiH shall be authorised to transmit programmes via land network, satellite, cable or any other technical means, as may be provided in an operating license from the Independent Media Commission (hereafter: IMC) or its successor.

The RTV FBiH may render services of teletext as well as engage in any filed of broadcasting technology.

Article 9

The RTV FBiH may publicise and distribute printed material pertinent to its programme or to other issues in relation to production and broadcasting of radio and television programme.

Article 10

Apart from the obligations defined by this Law, with a view to improving the remaining broadcasting time, the RTV FBiH may render additional programme services, regardless of the manners of their delivery or financing.

With a view to ensuring additional programme services from paragraph 1 of this Article, the RTV FBiH may co-operate with other legal and natural persons or gain membership therein.

Article 11

The RTV FBiH may establish dependent enterprises as well as exercise interest in profitable and non-profitable organisations whose activities are related to the function of the RTV FBiH, particularly in the field of production, usage and distribution of programme.

Article 12

The RTV FBiH activities from Articles 10 and 11 of this Law must be in compliance with the activities of the RTV FBiH.

Article 13

The RTV FBiH shall be bound to organise the collection, preservation and a procedure of archiving of all produced and collected audio-visual records in a modern archival manner, in accordance with Law.

The classification and categorisation of audio-visual records shall be defined depending on their culture, history and programming values.

The protection and usage of audio-visual records shall be provided by a separate enactment.

III - RTV FBiH PROGRAMME

Article 14

RTV FBiH shall conduct no broadcast operations except as provided in a license or licenses granted by the Independent Media Commission or its successor. The IMC shall consider and take action on license applications from RTV FBiH in accord with the provisions of this Law and with the rules and regulations of the IMC. RTV FBiH shall be required to make such periodic disclosures and other submissions as may be requested by the IMC in furtherance of its responsibilities in connection with the licensing of RTV FBiH or otherwise arising under this Law. Conformity with the provisions of this law by RTV FBiH shall be a necessary condition to the granting or continuation of a broadcast license to RTV FBiH by the IMC

The RTV FBiH shall be bound to ensure a high quality, diverse and balanced programmes for constituent peoples together with the Others, and for the citizens of Bosnia and Herzegovina from within the territory of the Federation of Bosnia and Herzegovina, including a correct share of separate programme contents for different minority groups, in compliance with the enactments of the RTV FBiH.

The languages and script in official use within the FBiH shall be equally used in the RTV FBiH programmes.

Certain programme contents shall be broadcast in the languages of minorities who live within the FBiH, and they may be broadcast in foreign languages too, in accordance with the RTV FBiH Statutes.

Article 15

The RTV FBiH programme must serve the interests of the public and shall particularly include information, education, culture, arts, sports and entertainment.

The RTV FBiH programme shall be produced and edited in a manner in which respect will be rendered to artistic and creative freedoms and in compliance with professional criteria.

The programme must not be in the function of privileged or narrow interests of any organisation, group, political party, association, religion or ideology.

Article 16

The RTV FBiH shall seek a license from IMC to broadcast its programming on two radio channels and two television channels to which users (listeners and viewers) must have equal access within the entire territory of the Federation and whose programmes must correspond to the standards pertaining to the public radio-television.

The programmes on the channels shall be complementary and aimed at providing a wider programme offer to the public, and the programme schemes for both channels shall be defined by the Council of the RTV FBiH.

The programme scheme of the RTV FBiH must ensure the equality of languages of constituent peoples of the FBiH, in particular in news programmes and culture programmes.

One of the channels shall, as a rule, use the Croatian language and the other channel shall, as a rule, use the Bosnian language. The RTV FBiH editorial network shall have a common basis on both channels.

Article 17

The contents of the programmes must be based on truth, must respect human dignity and different opinions and convictions, and promote the highest standards and principles of human rights, peace and social justice, international understanding, protection of democratic freedoms and environment protection.

The programme schemes for both channels of radio and television shall be defined at the level of the RTV FBiH.

Article 18

News programmes must be impartial, comprehensive and independent from anyone's influence, including political and religious influence, and produced in compliance with professional standards under a single and unified editorial management.

Prior to broadcasting, the truthfulness, origin and content of the material shall be examined with professional attention.

Comments must be clearly distinct from information.

Article 19

In its editorial policy, the RTV FBiH shall be obliged to particularly take into account the ethnic structure of the population within the Federation and the territorial organisation of the Federation, and to promote the diversity and richness of its cultures, religions and customs.

Not less than one fourth of the programmes broadcast in one day must be programmes produced in the BiH Federation.

Article 20

The programme must not, directly or indirectly, incite ethnic, religious or racial hatred, or any sort of inequality among people, or violence, disorder and disturbances, or perpetration of criminal acts.

Article 21

The programming must not contain pornography or such contents which inappropriately display violence.

Programme contents which could have negative influence on minors (damaging their emotional, moral, physical or mental development) may not be broadcast in the period from 0600 to 2300 hours.

Article 22

The RTV FBiH employees who edit RTV FBiH programmes shall be obliged to comply with the law, RTV FBiH Statute and acts which stipulate the methods of work (editorial policy, codes adopted at the level of the RTV FBiH, etc.).

The disciplinary procedure in the event of a violation of acts referred to in paragraph 1 of this Article by the RTV FBiH employees shall be foreseen in the RTV FBiH Enactment.

Article 23

No one may use any kind of violence, pressure or intimidation against the RTV FBiH or its employees, or in any other way illegally limit the freedom of public information.

Article 24

Each physical or legal person shall have the right to refer to the RTV FBiH remarks and suggestions related to its programming.

The RTV FBiH shall be obliged to ensure a scientifically based and feasible assessment of the listenership and viewership of its programmes, taking into account the remarks and suggestions of viewers and listeners from paragraph 1 of this Article, and shall take appropriate action accordingly.

IV - ACCESS TO INFORMATION AND CONFIDENTIALITY OF JOURNALISTIC SOURCES

Article 25

The RTV FBiH shall be authorised to broadcast sessions of the Federation Parliament in accordance with its acts.

During the pre-election campaign, the RTV FBiH shall be obliged to enable political parties, candidates, under equal conditions, promotion of election programs.

Article 26

Confidentiality of the sources of information used by the RTV FBiH journalists for their reports shall be guaranteed.

Disclosure of a source of information may only be required by an order of the competent court.

V - BROADCAST UPON THE REQUEST

Article 27

The RTV BiH shall broadcast, without delay and payment, announcements of the authorities and international community broadcast of which was urgent and of special importance for citizens and in particular announcements on life and health danger and jeopardy to property, security, public peace and order.

Article 28

The RTV FBiH may also refuse to broadcast the program upon request of political parties and candidates during the election campaign, and of religious communities on the occasion of religious services and other events, in accordance with the law, other regulations or enactments.

Article 29

The costs of production and broadcasting, as well as the responsibility for the contents of the program from Article 31 of this law shall be covered by the applicants.

VI - RIGHT TO REPLY AND CORRECTION

Article 30

The physical person and legal entity that statements given in RTV FBiH programs refer to, shall have right to reply or correction within 30 days from the day of broadcast.

A reply and correction have to be in writing and reduced to facts.

If a person to which statements refer to has died, his/her spouse, children, parents, brothers and sisters and foster parent, foster child, custodian, protege shall have the right to publish reply or correction.

Article 31

The RTV FBiH shall be bound to broadcast reply or correction as soon as it possible and in a manner and at the time as the announcement to which reply or correction refer to.

Reply or correction must be broadcast without changes and free of charge.

If a reply or correction are groundlessly long, the RTV FBiH shall request from the applicant to make it shorter within five days of the day of submission of the request, and in case if he/she does not do it, the RTV FBiH itself shall make the shortening for broadcast.

Article 32

If the RTV FBiH refuses to broadcast reply or correction, or if it does not broadcast it within the deadline and in a manner stipulated by the law, an applicant shall have the right, within 15 days from the day of expiration of the deadline set for broadcast of reply or correction, to petition the IMC for disciplinary action pursuant to the licensing of RTV BiH. The IMC shall determine the matter in accord with its rules of procedure and the purposes of this law,

and, if it finds that RTV BiH has failed to conform its conduct to the provisions and purposes of this law, it shall impose such sanctions as are just. Upon a final decision of the IMC on a petition submitted under this Article, the aggrieved party may institute an administrative dispute in a competent court

VII - PROVISION OF EVIDENCE

Article 33

The RTV FBiH shall be bound to record completely all radio and TV programs and to keep these recordings for at least 30 days after the day of broadcast.

Every physical or legal person who has the legal interest shall have a right to request to get, on his/her expenses, copy of the recordings.

The request from paragraph 2 of this Article must be in writing and explained. If a proceedings before the court are initiated, the RTV FBiH shall be bound to keep the recording until the court passes the decision.

Article 34

Provisions of this Law on right to reply and correction shall also be applied to request for issuance of recording.

VIII - MARKETING

(A) - Advertisements

Article 35

Advertisements in terms of this Law shall be considered to be advertising intended for promotion of sale of products and services or achieving other effects according to wish of ordering party, for which the RTV FBiH, in accordance with agreed remuneration, provides a certain period of time in its program.

Article 36

Any kind of influence of ordering party of broadcasting of advertisement on the content of programme outside its message shall be prohibited.

Article 37

Advertisements have to be clearly separated from the other program contents and as a rule it shall be broadcast in separate blocks.

Article 38

Length of advertisements may not be longer than 12 minutes within one hour of the program and in total it may not be longer than 15% of the total program.

Exceptionally from the provision of paragraph 1 of this Article, the advertisement may be broadcast in longer blocks after the end of the program of the specific day.

(B) - Sponsorship

Article 39

Sponsorship in terms of this Law shall be considered to be participation of legal or physical person outside the RTV FBiH in direct or indirect funding of the program aimed at promotion of the company, name or entire image of that person.

Sponsorship of the program must be clearly marked and it must not influence the content of the program.

Sponsorship of news shall not be allowed.

(C) - Service Price List

Article 40

Price List for marketing services (advertisements and sponsorship) shall be defined at the level of RTV FBiH.

Article 41

Broadcast of advertisements and sponsorship shall be regulated in more details by separate enactment of RTV FBiH.

IX - BODIES OF RTV FBiH

Article 42

Bodies of RTV FBiH are as follows:

- A. Council of RTV FBiH.
- B. Supervisory Committee.
- C. General Manager and Deputy General Manager.

The principle of national equality within the Federation has to be complied with in the composition of all RTV FBiH bodies, as well as when appointing editors and all holders of positions having special authorisations and their deputies.

(A) - Council of RTV FBiH

Article 43

RTV FBiH Council shall be the body through which the public interest in the RTV FBiH operations shall be realised in the manner as defined by this Law.

RTV FBiH Council shall:

1. determine program policy (principles, thematic orientation, scope and structure) in accordance with law and supervise its implementation.
2. ensure respective national structure of the employees.
3. adopt the Statute of RTV FBiH, codes, enactment on broadcast of advertisements and collection of subscription and other enactment.
4. define program schedules of RTV FBiH (Article 17. Paragraph 2.).
5. issue financial plan and annual financial statement and interim statements of accounts.
6. approve conclusion of contracts incurring debts for RTV FBiH above 1,000,000 KM.

7. approve the provision of additional program services (Article 9.).
8. decide on selection of logotypes of RTV FBiH and channels.
9. appoint members to Supervisory Committee.
10. appoint and dismiss General Manager and his/her Deputy.
11. perform other duties as specified by the law and Statute.
12. apply for, maintain and assure compliance with all appropriate operating licenses from IMC.

Within the period in which the BiH Federation is the only owner of RTV FBiH, the Council shall also perform the function of Assembly of Public Liability Company in accordance with the law.

Article 44

The RTV FBiH Council shall have 21 members, out of which seven shall be elected by the FBiH Parliament, and 14 by the Election Board consisting of the representative of cultural, educational, scientific, economic, artistic and sports institutions and associations.

The composition of the Election Board shall be decided by the FBiH Parliament, at the proposal of the institutions and associations mentioned in paragraph 1 of this Article.

Members of the RTV BiH Council shall perform no executive, legislative or judicial functions in the institutions of Bosnia and Herzegovina or its Entities, or in the institutions of cantons, cities or municipalities.

All the RTV FBiH Council members shall serve a four-year term of office which may be extended only once.

During their term, members of the RTV FBiH Council may be dismissed only by a decision of the Council itself made with two-thirds majority of votes.

Article 45

The composition of the RTV FBiH Council shall have to reflect the principle of national equality and multiparty representation in the Federation, while consideration shall also be given to the structures of the population in terms of gender, religion etc. when electing the Council members.

Each Canton shall have to be represented with at least one person with permanent place of residence within the Canton concerned.

Article 46

The RTV FBiH Council shall elect from amongst its members its president and vice-president who may not be from amongst the same constituent people.

The RTV FBiH Council shall adopt the Rules of Procedure for its work which must ensure protection of national interests in accordance with the Federation Constitution when decisions are to be taken on the issues being important for those interests.

(B) - Supervisory Committee

Article 47

The Supervisory Committee shall:

1. adopt an enactment on financial operations of RTV FBiH.
2. issue enactment on disciplinary procedure.

3. conclude, on behalf of the RTV FBiH, service contracts with the General Manager and Deputy General Manager.
4. approve foundation of affiliates and exercise of interest in other legal entities (Article 11).
5. issue Price List for marketing services.
6. propose financial plan and annual financial statements and interim statements of accounts.
7. issue enactment on filing of produced and collected phonographic and video records.
8. exercise other duties specified by the Statute.

The Supervisory Committee shall not be competent for the issues related to the Radio or Television programming.

Article 48

The Supervisory Committee shall have 9 members.

The term of office of the Supervisory Committee shall be four years.

Members of the Federation Parliament, BiH Federation Government, Cantonal Governments, the RTV FBiH Council or the persons who may not perform that function pursuant to the Law may not be elected members of the Supervisory Committee.

The term of office of a member of the Supervisory Committee who has been elected in place of a member whose term of office has not expired shall last until expiration of the term of office of the preceding member.

(C) General Manager and Deputy General Manager

Article 49

General Manager shall represent and stand for the RTV FBiH.

General Manager shall be responsible for legality of the work of the RTV FBiH, in particular for its compliance with program principles stipulated by law and decisions of the RTV FBiH Council.

General Manager shall, with the consent of Deputy General Manager, appoint Editor-in-Chief of the Radio and Editor-in-Chief of the Television.

General Manager of the RTV FBiH shall, with the consent of the Deputy General Manager, pass an enactment regulating procedure and manner of exercising the right to broadcast the program upon request.

General Manager shall perform other duties stipulated by law, Statute and other enactment of the RTV FBiH.

Article 50

The term of office of the General Manager shall last for 5 years and may be renewed only once.

General Manager shall have his/her deputy.

General Manager and Deputy General Manager may not be from amongst the same constituent people.

The provision of Article 52, Paragraph 3, of this Law on incompatibility of the functions shall also apply to the General Manager and Deputy General Manager.

(D) - Editor-in-Chief and Deputy Editor-in-Chief

Article 51

Radio and Television shall each have its editor-in-chief and deputy editor-in-chief who may not be from amongst the same constituent people.

Editor-in-Chief shall be responsible for the overall program orientation and for each piece of information broadcast in the programme, with the exception of announcements from Article 29 of this Law.

Radio and Television may have more editors responsible for certain segments of the program.

X - STATUTE AND OTHER GENERAL BYLAWS OF RTV FBiH

Article 52

Statute of RTV FBiH shall, in accordance with the Law, regulate:

1. address of the seat in Sarajevo.
2. other activities.
3. manner of decision making by the Council.
4. competencies of and manner of decision making by the Supervising Board.
5. internal organisation of RTV FBiH and management.
6. titles of channels.
7. rules concerning apportionment of financial resources within RTV FBiH
8. authorisations and obligations of Manager General and his Deputy.
9. authorisations and obligations of Editor-in-Chief and Program Editor.
10. rights and responsibilities of employees.
11. manner of establishment of the amount of compensation for the work of the members of Council and Supervising Board.
12. relations with trade union.
13. safeguarding of confidential information.
14. other issues of importance to the work of RTV FBiH, including, without limitation, the manner of securing operating licenses from the IMC.

Article 53

Other general bylaws of RTV FBiH shall be passed in accordance with the Law and Statute of RTV FBiH.

XI - FINANCING

Article 54

RTV FBiH shall be financed by the revenues from fees for RTV FBiH (hereinafter: subscription), advertisements, sponsorship and donations, providing services within its scope of activities, as well as by other means in accordance with the Law and Statute.

In the case that revenues collected from RTV FBiH subscription are not sufficient for its regular activities, which is to be determined by the RTV FBiH Council, RTV FBiH may get additional funding from the Federal Budget.

Program projects of special importance to the Federation may be funded from the Federal Budget.

The Federation shall be obliged to finance construction of transmission and emission network and key infrastructure facilities of RTV FBiH, as well as archives-related activities under Article 13 of this Law.

Article 55

All physical and legal entities in the territory of the Federation in possession of a radio or TV set shall be bound to pay monthly subscription to RTV FBiH, in a way and under conditions stipulated by this Law and general bylaw of RTV FBiH.

Article 56

With the view to ensuring the financial transparency and the accountability before the public, the Supervisory Committee shall adopt an approved annual budget for the current year at the latest by the first of February each year.

In case the annual budget is not approved to that date, an interim budget shall be passed which will be based on average monthly costs from the previous year. In this case, the final budget for the current year shall be passed at the latest seven days after it is approved.

In all cases, the annual budget shall be immediately sent to the Independent Media Commission or its successor and shall be published shortly in the "Official Gazette of the BiH federation." The budget shall also be publicised through the press and broadcasters.

Non-compliance with the previous provisions shall be subject to sanctions established by the RTV FBiH Council, without prejudging further measures taken by the IMC or its successor.

Article 57

Every person who has concluded an electric power supply contract with an electric power supply company shall be considered a person in possession of a radio and TV set.

Assumption from Paragraph 1 of this Article may be contested by written statement of a person that he/she does not have a radio or TV set, in a way defined by the Rule Book from Article 45, Paragraph 3 of this Law.

Article 58

Every physical or legal entity shall be bound to register procurement of radio or TV set with RTV FBiH, if such a procurement has made him/her bound to pay subscription stipulated by this Law.

Obligation to pay subscription shall start from the first day of the next month after the day of purchase of the set.

RTV FBiH shall have the right and responsibility to control whether physical and legal entities possess a radio or TV set, in a way which may not jeopardise constitutional rights of citizens.

Article 59

Legal entity shall be bound to pay subscription for each radio or TV set which it uses.

RTV FBiH shall carry out invoicing and collection of subscription from legal entities.

Article 60

Council of RTV FBiH by its decision and upon proposal of the Supervising Board shall stipulate the amount of subscription.

In case that separate regulations have stipulated presence of conditions for exempting certain social categories of citizens from payment of subscription, the appropriate amount shall be reimbursed by a body, in accordance with the Law, or other regulation.

Article 61

Company calculating the costs for supplied electric power shall calculate the amount of subscription in a monthly bill for electric power supplied to households.

Physical person shall pay subscription for only one set, regardless of the total number of sets in the household.

Company from Paragraph 1 of this Article shall be bound to pay the amount collected on the basis of subscription to the account of RTV FBiH at latest by the 10th in the month for the previous month, deducting 1% for its costs.

In case of being late to fulfil the obligation from Paragraph 2 of this Article, the company calculating the costs for supplied electric power, shall be bound to pay legal default interest to RTV FBiH.

Company calculating costs for supplied electric power shall regularly inform RTV FBiH about all cases of subscription non-payment. Relation between RTV FBiH and company calculating the costs for supplied electric power shall be regulated by contract in accordance with the Law.

XII - PENALTY CLAUSES

Article 62

Anyone using force or serious threat to prevent a responsible person in RTV FBiH from fulfilling rights and responsibilities of RTV FBiH stipulated by the Law or other regulation (Article 23 of this Law), shall be sentenced to between three months and five years of prison.

Article 63

Physical entity who, in contravention to provision of Article 60, Paragraph 1 of this Law, fails to register procurement of a radio or TV set, shall be fined in the amount between KM 100 and 300.

Article 64

Legal entity that, in contravention to provision of Article 60, Paragraph 1 of this Law, fails to register each radio or TV set obtained, shall be fined in the amount of KM 1000 – 3000, and the responsible person in the respective legal entity shall be fined in the amount of KM 200 – 500.

XIII - INTERIM AND FINAL PROVISIONS

Article 65

The Parliament shall appoint members of the RTV FBiH Council within 30 days from the effective date of this Law.

Until the constitution of the RTV FBiH Council in accordance with this Law, its function, stipulated by this Law, shall be performed by the Temporary Steering Board, appointed by the High Representative to Bosnia and Herzegovina.

Article 66

The High Representative shall appoint 14 members of the RTV FBiH Council in their first term of office, from among the representatives of cultural, educational, scientific, economic, artistic and sports institutions and associations stipulated in Article 46 of this Law, at his own discretion, and after consultations with the BiH Federation Government.

Article 67

RTV FBiH Council shall appoint Director General and Deputy Director General in accordance with this Law, at the latest within 30 days from the day the Council was appointed.

Article 68

The High Representative shall appoint a Supervisor for RTV FBiH, in charge of overseeing the work of RTV FBiH until the High Representative will deem appropriate, and ensure legal representation of RTV FBiH until such time when its organs shall become operational.

Article 69

The Statute and other bylaws of RTV FBiH shall be passed at the latest within 90 days from the effective date of this Law.

Article 70

Starting 1 September 1999, RTV FBiH shall pay to the Public Radio Television of Bosnia and Herzegovina a share of income from the subscription fees, in accordance with Article 2 of the High Representative's Decision on the Restructuring of the Public Broadcasting System in Bosnia and Herzegovina.

Article 71

This Law shall represent the foundation charter of RTV FBiH for its registration at the court's register.

Article 72

This Law shall become effective on the 8th day from the day of its publishing in the "Official Gazette of the Federation of Bosnia and Herzegovina".

In the exercise of the powers vested in me by Article 5 of Annex 10 to the General Agreement for Peace (hereafter: GFAP), according to which the High Representative is the final authority in theater regarding interpretation of his mandate; and considering in particular Art. II.1.(d) of the same Agreement, in terms of which the High Representative shall have the power to facilitate, as he judges necessary, the resolution of any difficulties arising in connection with civilian implementation; recalling the interpretation of such a power given in paragraph XI.2 of the Conclusions of the Peace Implementation Conference held in Bonn the 10 December 1997, particularly sub-paragraph (b) thereof, in terms of which the High Representative is entitled to make binding decisions, as he judges necessary, on the adoption of measures aiming at ensuring implementation of the GFAP throughout Bosnia and Herzegovina (hereafter: BiH), including interim measures to take effect when parties are unable to reach agreement;

Considering the urgent need to uphold the constitutionally recognized Freedom of Expression, to ensure genuine

media freedom, and to uphold the public's right to know about the activities of elected government bodies;

Bearing in mind the exhortation of the Peace Implementation Council, particularly in Chapter V, Paragraph 24 of the Madrid Declaration of 16 December 1998 urging all authorities to adopt legislation protecting Freedom of Information and the freedom of expression and movement of journalists in particular, as well as granting the public wider access to information held by governmental authorities;

Noting that in spite of the above exhortations, the authorities of the Federation of Bosnia and Herzegovina and the Republika Srpska have failed to bring the necessary legislative measures into force;

This all considered, being borne in mind and noted, I hereby issue the following

DECISION

on Freedom of Information and the Decriminalization of Libel and Defamation

I hereby suspend the sanction of imprisonment provided for in Articles 213- 220 of the Federation Criminal Code and Articles 80 - 87 of the Republika Srpska Criminal Code - Special Part under the Chapter "Criminal Acts Against Honour and Reputation". These Articles allow for the criminal prosecution of defamation and insult (amongst other offenses) and the imposition of criminal sanctions. The existence and use of these criminal provisions have had a chilling effect on journalistic freedom in BiH.

I further require that both Entities, under the guidance of the Office of the High Representative, adopt the necessary legislation to create civil remedies for defamation, libel and slander in accordance with the European Convention for the Protection of Human Rights and Fundamental Freedoms and - upon the adoption of these civil remedies - ensure that the above referenced Articles in the criminal codes are repealed. This action must be completed no later than 30 December, 1999.

I also require that the state of Bosnia and Herzegovina and Entity governments and parliaments prepare and adopt Freedom of Information legislation, and amend existing legislation as necessary, which upholds the citizen's right to information except for narrowly defined categories. Such legislation should uphold the highest international standards and be prepared under the guidance of the Office of the High Representative, the Organization for Security and Cooperation in Europe Mission in BiH and international legal experts. This must also be completed no later than 30 December 1999.

Sarajevo, 30 July 1999

Carlos Westendorp
High Representative

Office of the High Representative