

Decision on the Special Auditor for the Federation 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”;

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 current situation as to the public budget in the Federation of Bosnia and Herzegovina and paying attention to the fact that transparency in governmental behavior of spending public funds is not sufficiently established;

Bearing in mind that the Peace Implementation Council at its meeting in Brussels on 23/24 May 2000 urged measures for improved transparency in public budgets;

Bearing also in mind that the Peace Implementation Council at its meeting in Brussels on 23/24 May 2000 urged the High Representative to use his authority in accordance with his mandate to remove obstacles that stand in the way of economic reform and to create the conditions for self-sustaining market-driven economic growth to avoid an economic crisis as Bosnia and Herzegovina makes the transition from a donor dependent economy;

Noting that the public financial situation demands a safeguard of public funds;

Noting that following the appointment of the Auditor-General and the Deputy Auditor-General in October 2000, the Federation Supreme Audit Institution is now able and willing to fulfill its mandate of providing transparency over the budgets of the Federation;

Reminding of the Decision of the High Representative on the Special Auditor for the Cantons of the Federation of Bosnia and Herzegovina of 5 February 2001 (n. 83/2001) by which transparency of Cantonal level budgets shall be assured;

Considering that a harmonization between the work of the Supreme Audit Institution and the Special Auditor’s office is in the general interest of transparency in the Federation of Bosnia and Herzegovina and in the specific interest of the two aforementioned agencies;

Noting that a comprehensive and effective audit of the Federation of Bosnia and Herzegovina by the Special Auditor must include an audit of the Entity level institutions;

Concluding that the transition from the former Payment Bureaus to a functioning Banking system needs an independent oversight and an objective control;

All this considered, borne in mind and noted, I hereby issue the following Decision on the Special Auditor for the Federation of Bosnia and Herzegovina;

DECISION

On the Special Auditor for the Federation of Bosnia and Herzegovina

Article 1

1. This Decision provides for the establishment and method of working of the Special Auditor for the Federation of Bosnia and Herzegovina (hereinafter "Special Auditor") over the public funds of the entity, cantonal and municipality institutions, appointment of the Special Auditor, powers and responsibilities of the Special Auditor, kinds of auditing and submission of audit reports.

Article 2

1. In this Decision, the terms used have the following meaning:

- a) "Special Auditor or any authorized person" refers to the person appointed to this position by the High Representative or any authorized person appointed by the Special Auditor;
- b) "Institution" refers to all Institutions, Ministries, government agencies, extra-budgetary funds of the entity, cantons and municipalities of the Federation of Bosnia and Herzegovina established by law;
- c) "Company" refers to any company:
 - 1) in which an Institution has a share-holding, regardless of the size of that share-holding; or
 - 2) which is funded by an Institution or has received a loan or grant from an Institution;
- d) "Auditee" refers to any Institution or Company, which is audited by the Special Auditor or any authorized person;
- e) "Premises" mean any building, office, land or site;
- f) "Information" means any material which communicates facts, opinions, data or any other matter, including any copy or portion thereof, regardless of physical form, characteristics, when it was created, or how it is classified. Such information includes, but it is not limited to:
 - 1) public accounts of an Institution;
 - 2) financial statements or reports of an Institution or a Company.

Article 3

1. Ms. Dale Ellen Ralph, is hereby appointed as Special Auditor for the Federation of Bosnia and Herzegovina in a renewable term defined in her terms of appointment.
2. The High Representative may remove the Special Auditor before the end of her term on the grounds of misbehavior or that the quality of work fails to meet the standards determined in accordance with Article 5 of this Decision.
3. The Special Auditor may resign in writing in accordance with the terms of her appointment.
4. Should the Special Auditor cease to be able to hold her office, another Special Auditor may be appointed by the High Representative. The appointment shall be published in the Official Gazettes of the Federation of Bosnia and Herzegovina and its Cantons.

Article 4

1. The Special Auditor may appoint her staff to carry out her functions under this Decision.
2. The staff authorized to conduct the Special Auditor's functions under this Decision shall carry a letter of appointment.
3. The Special Auditor shall define the terms of employment of her staff.

Article 5

1. The Special Auditor or any authorized person may carry out audits to verify :

- a) that all reasonable precautions have been taken by the Auditee to safeguard the collection and custody of revenues and that the law, instructions and directions relating thereto have been duly observed;
- b) that the disbursement of revenues by the Auditee, including extra budgetary funds, has taken place under the proper authority and for the purposes intended by the Auditee;
- c) that all reasonable precautions have been taken by the Auditee to safeguard the receipt, custody, issue and proper use of public reserves, and that the instructions relating thereto have been duly observed.

Article 6

1. The Special Auditor or any authorized person :

- a) may, at all reasonable times, enter and remain on any premises occupied by the Auditee;
- b) is entitled to full and free access at all reasonable times to any information held by the Auditee, to any relevant information held by an Institution and to relevant former Payments Bureaus? records;
- c) is entitled to copy the information examined in the course of the audit;
- d) is entitled to be given answers to his or her written questions to the Auditee.

2. The Special Auditor or any authorized person shall produce his or her proof of authority, which shall consist of a proof of his or her appointment, upon request of the Auditee.

3. All authorities of the entity, cantons and municipalities of the Federation of Bosnia and Herzegovina shall fully cooperate with the Special Auditor or her staff and comply with their instructions in accordance with this Decision.

Article 7

1. The Auditee may refuse to provide any information whose disclosure would reasonably be expected to cause substantial harm to current criminal proceedings.

2. Should the Auditee refuse to provide any information in accordance with the first paragraph of this Article, the Auditee shall inform within three days in writing the Special Auditor or the authorized person of the criminal proceedings. In such case, the Special Auditor or the authorized person shall inform without delay the Office of the High Representative.

Article 8

1. With the exceptions of the audit report and the monthly report provided under Articles 9 and 10 of this Decision, the Special Auditor or any authorized person shall not disclose any information obtained in the course of performing any of his or her functions.

Article 9

1. The Special Auditor or any authorized person shall produce an audit report of any audit conducted in accordance with Article 5 of this Decision. Copies of the audit report shall be made available in English and in Bosniac and Croatian languages to:

- a) the Auditee;
- b) the Federation Government and Federation Parliament, or the Cantonal Government and the Cantonal Assembly where the Audit took place;

- c) the Supreme Audit Institution;
- d) the High Representative.

2. Before submitting his or her audit report, the Special Auditor or any authorized person shall give a copy of the proposed audit report to the Auditee. If the Auditee gives written comments to the Special Auditor or any authorized person within 15 days after receiving the proposed report, the Special Auditor or any authorized person shall consider and include those comments before submitting the audit report.

Article 10

1. The Special Auditor or any authorized person shall provide the High Representative with a monthly report of activities.
2. Such report shall contain all relevant information on ongoing audits.

Article 11

1. This Decision replaces the Decision of the High Representative on the Special Auditor for the Cantons of the Federation of Bosnia and Herzegovina of 5 February 2001.

Article 12

1. This Decision shall enter into force on the day of its signature and shall be published without delay in the Official Gazettes of the Federation of Bosnia and Herzegovina and its Cantons.

Sarajevo, 2 March 2001

Wolfgang Petritsch
High Representative

Office of the High Representative