

Decision imposing the Federation Law on Pension and Disability Insurance Organisation, providing a framework for the merger of the Sarajevo and Mostar pension funds

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) “other measures to ensure the Peace Agreement throughout Bosnia and Herzegovina and its Entities”;

Bearing in mind that in the Madrid Declaration of the Peace Implementation Council of 16 December 1998 reference was made to the urgency of “ending parallel institutions” and to “the creation of a professional and apolitical civil service”;

Noting also that in the Declaration of the Peace Implementation Council which met in Brussels on 23 and 24 May 2000 under the heading “Fostering and Consolidating Institutions” it was reiterated that the “Šcontinued existence of parallel institutions” was hindering the development of public institutions at all levels;

Noting that in the last said Declaration the Council urged the authorities to proceed with broad-based reform of the social security system and of unsustainable governmental bureaucracy at all levels;

Noting that it was stated in the said Declaration that “The Council urges the High Representative to use his authority in accordance with his mandate to ensure full and accelerated implementation in all sectors of civilian implementation, including removing obstacles that stand in the way of economic reform”;

Considering the role and importance of a sustainable and transparent Pension and Disability Insurance Fund for the citizens of Bosnia and Herzegovina;

Considering furthermore that the need for the approval of the Law on the Pension and Disability Insurance Organization was recognized and agreed upon by relevant Federation officials at the Federation Forum held on 11 May 1999;

Concerned that the Federation Parliament has refused to adopt such Law.

Having considered, borne in mind and noted all the matters aforesaid, I hereby issue the following Decision which shall enter into force with immediate effect on an interim basis, until such time as the Federation Parliament shall adopt this Law in due form, without amendments and with no conditions attached.

DECISION

ON THE LAW ON PENSION AND DISABILITY INSURANCE ORGANIZATION OF THE FEDERATION OF BOSNIA AND HERZEGOVINA

I. PRIMARY PROVISION

Article 1

1. Under this Law on Pension and Disability Insurance Organization, management authorities and

their competencies, management of pension and invalid insurance, fundamentals of single administrative service organization and other issues of significance for the organization of pension and invalid insurance shall be regulated.

Article 2

1. The Federation Pension and Disability Institute shall be established to deal with the issues involving pension and disability (hereafter: Federation Institute).
2. Legal, economic, administrative and other tasks of the Federation Institute shall be organized within its Central Administrative Office of the Pension and Disability Insurance (hereafter: Central Office) and Cantonal Administrative Office of the Pension and Disability Insurance (hereafter: Cantonal office).

II. FEDERATION PENSION AND DISABILITY INSURANCE INSTITUTE

Article 3

1. The Federation Institute shall be a public institution functioning under the regulations valid for institutions, unless otherwise provided under this Law.
2. The Federation Institute shall be a legal person with the rights, obligations and responsibilities established under this Law, other Laws and the Statute of the Federation Institute (hereafter: the Statute).
3. The seat of the Federation Institute shall be in Mostar.
4. The Federation Institute shall have one giro account.
5. The Federation Institute's activities shall be public.

Article 4

1. The Federation Institute shall perform the following activities:
 - a. carry out all the activities related to pension and invalid insurance in accordance with this law, Law on Pension and Disability Insurance (Official Gazette of the Federation of BiH, No. 29/98) and other laws and the Statute;
 - b. collect contributions meant for pension and disability insurance and disburse pensions;
 - c. implement procedure regarding establishment of rights from pension and invalid insurance;
 - d. manage the funds and assets of the Federation Institute;
 - e. perform other jobs in accordance with the law, Statute and other general regulations.

Article 5

1. The Board of Directors shall manage the Federation Institute.
2. The Board of Directors shall consist of eleven members appointed by the Government of the Federation of Bosnia and Herzegovina (hereinafter: the Federation Government). Ten of the members shall be appointed based on the proposal of the Canton Governments, and one member shall be proposed by the Association of the Pensioners of the Federation of Bosnia and Herzegovina.
3. The Chair of the Board of Directors and the members of the Board shall be persons with a university degree and significant working experience in public finances, in particular pension and disability insurance.
4. The Board of Directors shall be appointed for a period of two years. The mandate of the Chair and the members of the Board of Directors may be renewed.

Article 6

1. The Board of Directors shall perform the following functions:
 - a. enact the Statute and other general regulations of the Federation Institute;
 - b. enact a financial plan, endorse an annual financial statement and report on the activities of the Federation Institute;
 - c. define rates of contribution, within the authority provided under the Law on Pension and Disability Insurance, regarding pension and invalid insurance with the approval of the Federation Government;
 - d. establish bases for the calculation and payment of contributions that have not been stipulated under the Law on Contributions (Official Gazette of the Federation of Bosnia and Herzegovina No. 35/98) and Law on Pension and Disability Insurance (Official Gazette of the Federation of Bosnia and Herzegovina No. 29/98);
 - e. appoint and dismiss Director and Deputy Director of the Central and Cantonal offices;
 - f. appoint commissions and other working bodies of the Board of Directors;
 - g. organize the Central and Cantonal offices, job description and the number of people to be employed by such offices;
 - h. look after timely inflow of funds for pension and invalid insurance;
 - i. have the responsibility to maintain a fiscal balance and not to allow arrears towards beneficiaries on either a cash or securities basis which cannot be covered by income;
 - j. enter into agreements with the Republika Srpska Pension and Disability Insurance carrier, when required;
 - k. perform other tasks in accordance with the law, the Statute and other general regulations of the Federation Institute.

Article 7

1. The Board of Directors shall make decisions by a two third majority vote of the appointed members of the Board of Directors.
2. Decisions that shall be made by the Board of Directors, by consensus, are determined by the Statute.

Article 8

1. The Supervising Board shall be the Federation Institute control authority.
2. The Supervising Board shall consist of the Chair and two members.
3. The Chair and the members of the Supervising Board shall be appointed by the Federation Government.
4. The Chair and the members of the Supervising Board shall be persons with a university degree and significant working experience in public finances, in particular pension and disability insurance.
5. The Supervising Board shall be appointed for a period of two years and the mandate of the Chair of the Board and the members of the Board may be renewed.

Article 9

1. The Supervising Board shall:
 - a. analyze reports of the Federation Institute's activities;
 - b. when conducting supervision it shall review the annual report on business activities and annual financial report of the Federation Institute;
 - c. report to the Federation of Bosnia and Herzegovina Parliament (hereafter: the Federation Parliament) on the supervision results.

Article 10

1. The Federation Institute shall be managed by the Director.

2. The Director shall represent and act on behalf of the Federation Institute.

Article 11

1. The Director of the Federation Institute shall be appointed following a public advertisement for a period of 4 years. The advertisement shall be published in at least two daily newspapers which cover the entire Federation and in the "Official Gazette of the Federation of BiH".
2. The Director of the Federation Institute should be a person with a university degree and significant experience in public financing, in particular pension and disability insurance.
3. Neither public function holder nor elected party official may be appointed as the Director.
4. The Director shall be appointed and dismissed by the Federation Government.
5. The Director of the Federation Institute shall have a Deputy, appointed and dismissed under the same terms and conditions as the Director.

I. ADMINISTRATIVE SERVICE

Article 12

1. The Central Office shall perform the following activities:
 - a. co-ordinate and supervise the application of the law, general regulations and international agreements on social insurance;
 - b. draft Statute and general regulations;
 - c. collect and allocate the pension and disability insurance funds;
 - d. resolve second instance issues regarding rights and obligations under the pension and disability insurance;
 - e. resolve second instance issues regarding rights and obligations under the pension and disability insurance through the application of intentional agreements on social insurance;
 - f. other activities in accordance with the Law, Statute and general regulations of the Federation Institute.
2. The seat of the Central Office shall be in the seat of the Federation Institute.

Article 13

1. The Cantonal Office shall perform the following activities:
 - a. resolve first instance issues regarding rights and obligations under pension and disability insurance;
 - b. resolve first instance issues regarding rights and obligations under the pension and disability insurance through the application of international agreements on social insurance;
 - c. other activities in accordance with the Statute and general regulations of the Federation Institute.
2. The seat of the Cantonal Office shall be in the seat of the Canton concerned.

Article 14

1. The Board of Directors, in close co-operation with the Central Office and in consultation with Cantonal Offices, shall decide whether two or more Cantonal Offices will be unified into a single office.
2. Conditions for unification of two or more Cantonal Offices into a single one shall be regulated by the Statute and based upon principle of reducing the number of employees and improving the efficiency in the performance of administrative activities.

Article 15

1. The Administrative Service shall be financed from the income of the pension and disability insurance fund. The amount to be used for that purpose shall be agreed upon by the Federation Government.

I. THE STATUTE

Article 16

1. The Statute and other general regulations shall be prepared by the Federation Institute.
2. The Statute shall regulate the following:
 - a. scope of operation, authority and responsibilities of the Federation Institute Director and Deputy Director, Central and Cantonal Office Directors and Deputy Directors;
 - b. conditions for appointment of the Director and Deputy Director of the Central and Cantonal Offices, issues on which Directors and Deputy Directors have to have agreed positions;
 - c. publicity of the Federation Institute operation;
 - d. basis of the organization of Central Office, Cantonal Offices and their competencies;
 - e. other issues of importance related to implementation of pension and disability insurance and for the functioning of the Federation Institute.
3. The Federation Institute Statute shall be approved by the Federation Parliament.
4. The Statute and other general regulations of the Federation Institute shall be published in the "Official Gazette of the Federation of Bosnia and Herzegovina".

I. TRANSITIONAL AND FINAL PROVISIONS

Article 17

1. The Federation Institute shall be established as a result of the re-organization of the Bosnia and Herzegovina Social Pension and Disability Insurance Fund and Mostar Pension and Disability Insurance Fund (hereinafter: Current insurance carriers).
2. The Federation Institute shall become operational within five months of the day on which this Law enters into force, but in any event no later than 30 April 2001.
3. The Current insurance holders shall continue to operate until the Federation Institute is operational. The Federation Ministry of Social Affairs, Displaced Persons and Refugees and the Agency for Pension and Invalid Insurance established under Article 154 of the Law on Pension and Disability Insurance and the current insurance carriers shall prepare temporary general regulations and implement the procedure for the Federation Institute to become operational.
4. Within three months from the day of the entry of this Law into force the Federation Government shall pass the programme for financial consolidation of the current insurance carriers, especially establishing conditions for harmonization of timing for pension disbursements and pension payments and in the amount of entitlements of pension beneficiaries in accordance with the Law on Pension and Disability Insurance.

Article 18

1. The current insurance holders' assets consisting of objects, rights, money and other movable and real property owned by the current insurance carriers shall be taken over by the Federation Institute.
2. Employees of the current insurance carriers shall be taken over by the Federation Institute.
3. Hand-over of official documentation between the current insurance carriers and the Federal Institute shall be done in accordance with the Decision on hand/take over procedure of official documentation between the outgoing and newly established administration bodies and Federation institutions (Official Gazette of the Federation BiH No 20/98).

Article 19

1. The temporary Director of the Federation Institute and his Deputy shall be appointed by the Federation Government, until the appointment of the Director and his Deputy in accordance with Article 11 of this Law.

Article 20

1. The Agency for Pension and Disability Insurance shall cease its work upon completion of the tasks as referred to in Article 18 of this law.

Article 21

1. This Law shall be published without delay in the Official Gazette of the Federation of Bosnia and Herzegovina and shall enter into force on the eighth day following the date of such publication.

Sarajevo, 12 November 2000

Wolfgang Petritsch
High Representative

Office of the High Representative