

Decision amending the Law on the Banking Agency of the RS

In the exercise of the powers vested in me by Article 5 of Annex 10 to the General Agreement for Peace in Bosnia and Herzegovina, 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, entrusting on the High Representative 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 Peace Agreement throughout Bosnia and Herzegovina, including *“interim measures to take effect when parties are unable to reach agreement ...”*;

Considering that Republika of Srpska Banking Agency law does not provide protection for officials, examiners, staff, contract persons, appointees (provisional administrators, receivers, liquidators, auditors, outside attorneys, etc.) from personal liability arising from the normal performance of their duties.

Bearing in mind that such protection is customary and necessary for a strong and independent supervisory function. While supervisors are required to use reasonable care in their actions, Agency employees require protection from undue government and non-government persons and frivolous lawsuits. Such protection is one of the key “Pre-conditions for Effective Bank Supervision” established by the Basle Committee

and supported by most western countries. Threats and acts of intimidation interfere with the banking agencies' exercise of authority, independence and supervisory actions, distracts and reduces the pace of examinations; cripples the ability of the agencies to supervise the banking sector. Without such internationally recognized protection and due process, Agency personnel and examiner performance is undermined and banking agencies cannot operate as fully independent regulatory agencies.

All this considered, born in mind and noted, I hereby issue the following

DECISION

On Amending the Law on Banking Agency of the Republika Srpska Article 1

In Article 5, Paragraph 2 shall be deleted and replaced with the language as follows:

"From the establishment of the Agency Director of the Agency, Deputy Director of the Agency, employees of the Agency, as well as individuals recommended or appointed by the Agency to perform certain activities from the mission of the agency, cannot be subject to prosecution for criminal offenses nor held responsible in civil law procedure for any actions done in good faith while performing acts within the scope of their authority. The Agency will indemnify its employees against legal action taken against the employee for acts done in good faith in the performance of their duties within the scope of their authority."

Article 2

In all other aspects, the Law on Banking Agency in the Republika Srpska is unchanged.

Article 3

This amendment shall enter into force on the eighth day from the day of its publication in the "Official Gazette" of the Republik Srpska.

Sarajevo, 22 May 2000

Wolfgang Petritsch
High Representative

Office of the High Representative