Decision allowing provisional bank administrators in the Federation to make pay-outs of up to 5,000 KM to deposit holders before the completion of their final reports

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 that the Federation Law on Banks does not empower the Provisional Administrator of a bank with the authority to pay out, even when funds for pay out are available, deposits of small natural depositors before the presentation by the Provisional Administrator of his/her written report to the Banking Agency on the financial condition and future prospects of the bank for which he/she has been appointed;

Noting that the completion of the ongoing project to amend the existing Federation Law on Banks as well as the adoption of the new amendments by the Federation authorities may take several months;

Bearing in mind the need to strengthen public confidence in the credibility of the banking system and the need to ensure that bona fide small natural depositors of a bank under provisional administration are not forced to wait unduly in order to get their deposits back;

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

DECISION

ON AMENDING THE LAW ON BANKS OF THE FEDERATION OF BOSNIA AND HERZEGOVINA

Article 1

The Law on Banks of the Federation of Bosnia and Herzegovina (“Official Gazette of the Federation of BiH” No. 39/98, and 32/00) Article 57, Paragraph 3, is amended by the addition of

a further clause 8 as follows:

“8. make the pay-out of deposits of natural depositors to such depositors, within the funds available and on a pro-rata basis if applicable. Subject to the availability of reserves for priorities 1 and 2 of Article 63 of this Law, the maximum amount to be paid out per natural depositor shall be the aggregate of all of his or her deposits less any legal or contractual debt owed to the bank by the natural depositor or 5000 KM, which ever is smaller. The deposits shall exclude funds kept in any account whereby the account title is not transparent as to its ownership or any non-nominative deposit or assets kept in a bank’s safe deposit box. Also excluded shall be deposits, loans or any other transaction for which the natural depositor has obtained rates, whether preferential or otherwise, and/or any other financial concession from the bank which may have helped to aggravate the bank’s financial condition. The bank’s own supervisory and management board members, management, shareholders of at least five(5) percent of the bank’s capital and persons responsible for carrying out the statutory audits of the bank’s accounting documents are not entitled to any pay-out. The immediate family within the third degree of consanguinity or marriage of persons mentioned in the previous sentence as well as third parties acting on behalf of the same persons are also not entitled to any pay-out.”

Article 2

In all other aspects, the Law on Banks of the Federation of Bosnia and Herzegovina is unchanged.

Article 3

This Decision shall come into force immediately and shall be published as soon as possible in the “Official Gazette of the

Federation of Bosnia and Herzegovina”.

Sarajevo, 6 November 2001

High Representative

Wolfgang Petritsch

Click here for the Press Release related to this Decision.