Decision amending the Federation Law on Pension and Disability Insurance, providing for financial feasibility and independence

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 Annex IV. 18 to the Madrid Declaration

of the Peace Implementation Council of 16 December1998 it was stated that “The Council emphasises the need to ensure better governance and full transparency in public finances” and that the Council in Annex IV. 19 urged the Entities to implement “comprehensive reform of the pension and health systems based on the principles of efficiency, financial sustainability and maximum provision for private participation”;

Noting that it was stated in the Declaration of the Peace Implementation Council which met in Brussels on 23 and 24 May 2000 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”;

Noting also that it was stated in the said Declaration that certain economic reforms were critical, and that under the heading “Enabling private sector growth” it was set out inter alia that “The Council urges the authorities to proceed with broad-based reform of the taxation and customs systems … the social security system … and the unsustainable governmental bureaucracy at all levels”;

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 amendments to the Law on Pension and Disability Insurance would, among others, ensure regular pension payments, prevent the accumulation of further arrears and avoid the irresponsible practice of arbitrarily increasing unsustainable pension payments;

Concerned that the Federation Parliament has refused to adopt such necessary amendments.

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 adopts this Law in due form, without further amendments and with no conditions attached.

DECISION

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

The Law on Pension and Disability Insurance published in the Official Gazette of the Federation of Bosnia and Herzegovina (number 29/98 of 23 July 1998) is hereby amended as follows:

Article 1

1. In Article 32, after Paragraph 1 of the Law on Pension and Disability Insurance, new Paragraph 2 shall be added, to read as follows:

“The pension base as referred to in Paragraph 1 of this article shall be determined according to the monthly average salary achieved by the policy holder in”:

a) the year 2005 for 17 years of insurance;
b) the year 2006 for 19 years of insurance;
c) he year 2007 for 21 years of insurance;
d) the year 2008 for 23 years of insurance;
e) the year 2009 for 25 years of insurance
f) the year 2010 for 27 years of insurance;
g) the year 2011 for 29 years of insurance;
h) the year 2012 for 31 years of insurance;
i) the year 2013 for 34 years of insurance;
j) the year 2014 for 37 years of insurance;
k) the year 2015 for 40 years of insurance.

2. The words: “than 15 years” in Paragraph 4 shall be replaced by the words: “than the number of insurance years determined in Paragraphs 1 and 2 of this article.”

3. Previous Paragraphs 2, 3 and 4 shall become Paragraphs 3, 4 and 5.

Article 2

1. Article 50, Paragraph 1 shall be amended to read as follows:

“The old-age pension shall be determined as a percentage of the pension base, according to the length of the pension service period. For twenty years of the pension service period, it shall be equal to 45% of the pension base. For each additional completed year, it shall be increased as follows”:

a) by 1.90% in the year 2001;
b) by 1.80% in the year 2002;
c) by 1.70% in the year 2003;
d) by 1.60% in the year 2004;
e) by 1.50% in the year 2005 and the following years.

2. After Paragraph 1, new Paragraph 2 shall be added to read as follows:

“Old age pension, starting from the year 2005, cannot be more than 75% of the pension base.”

3. Previous Paragraphs 2 and 3 shall become Paragraphs 3 and 4.

Article 3

1. In Article 51, Paragraphs 1, 2 and 3, shall be amended to read as follows:

Pensions established pursuant to the provisions of this Law shall be adjusted monthly, as necessary, based on the funds allocated for pension payments.

If an insurance carrier does not have pension resources (hereinafter referred to as: available resources) equal to expenditures, which include administrative expenditures and pensions at the level required pursuant to this Law for the month for which the payment of pensions is carried out (hereinafter referred to as: expenditures), pensions will be recalculated by multiplying the pension level for that month

by the coefficient described below.

In the case in which available resources are less than expenditures, the coefficient referred to in Paragraph 2 of this article shall be established by subtracting the funds required for administrative expenditures and the funds required to pay all pensions up to the minimum pension level in that month from the available resources. The amount required for paying minimum pension level to all pensioners is determined by multiplying the number of the pension beneficiaries by the minimum pension. The amount resulting from subtracting administrative expenditures and pensions up to the minimum level from the available resources for that month shall be divided by the amount required to pay all pensioners in that month, based on the pension at the level required pursuant to this Law, after subtracting administrative expenditures and the amount required for paying minimum pension level to all pensioners.

2. After Paragraph 3, new Paragraphs 4, 5 and 6 shall be added to read as follows:

When available resources are less than expenditures, all pensions, except minimum pension, shall be multiplied by the coefficient referred to in Paragraph 3 of this article. The coefficient shall be applied on the difference between each individual pension at the level required pursuant to this Law for the month for which the payment of pensions is carried out and the minimum pension level.

In the case in which available resources exceed expenditures, the coefficient referred to in Paragraph 2 of this article shall be established by subtracting the funds required for administrative expenditures from the available resources. The amount resulting from subtracting administrative expenditures from available resources shall be divided by the amount required to pay all pensioners in that month, based on the pension at the level required pursuant to this Law, after

subtracting administrative expenditures.

When available resources exceed expenditures, the coefficient shall be applied on all pensions. Each individual pension pursuant to this Law shall be multiplied by the coefficient referred to in Paragraph 5 of this article.

Article 4

1. In Article 54, Item 2, words “than 15 years”, shall be replaced by words: “Than number of insurance service years pursuant to article 32, Paragraph 1 and 2 of this Law”.

2. In Item 3, words “than 15 years”, shall be replaced by words: “Than number of insurance service years pursuant to article 32, Paragraph 1 and 2 of this Law”.

Article 5

1. In Article 55, Paragraph 1, words: “is established in the amount corresponding to 85% of the pension base” shall be replaced by words: “cannot be less than old-age pension for the 40 years of length of the pension service period.”

Article 6

1. Article 56 shall be amended to read as follows:

“The disability pension in case of disability caused by an illness or injury outside of work shall be determined as a percentage of the number of pension service years and the coverage of length of the years of service by the pension service period, which amounts to”:

Completed pension service (years)	Length of years of service covered by pension service period 3/4 and over %	Length of years of service covered by pension service period less than 3/4 %

Up to 20	50	47
21	51.67	48.87
22	53.34	50.74
23	55.01	52.61
24	56.68	54.48
25	58.35	56.35
26	60.02	58.22
27	61.69	60.09
28	63.36	61.96
29	65.03	63.83
30	66.70	65.70
31	68.37	67.57
32	70.04	69.44
33	71.71	71.31
34	73.38	73.18
35 and higher	75	75

The disability pension may not exceed 75% of the pension base.

Article 7

1. In Article 58, the words: “than 85%” shall be replaced by words: “than 75%”.

Article 8

1. In Article 72, Paragraph 1, after the words: “acquired right to” the words: “the old-age” shall be deleted, and after the word “base” the new words shall be added to read “or policy holders that acquired right to the old-age pension with 40 years of length of pension service and disability pension with 35 years of length of pension service”.

Article 9

1. After Article 72, new sub-heading 6a – Monetary compensation for physical impairment is added as well as Articles 72a, 72b, 72c and 72d, to read as follows:

“6a – Monetary compensation for physical impairment”

Article 72a

1. A physical impairment shall exist when a policy holder has suffered a loss, a serious injury or substantial incapacitation of an organ or parts of the body that aggravates the natural activity of the organism and requires more efforts to be made in order for living needs to be satisfied, irrespective of whether or not disability is thus caused.

2. The right to a monetary compensation due to a physical impairment shall be acquired by a policy holder whose physical impairment of a minimum of 30% has resulted from an injury at work or a work-related illness.

3. Types of physical impairment based on which the right to a monetary compensation is acquired and percentages of such impairment shall be specified by a law.

Article 72b

1. A monetary compensation base for a physical impairment shall constitute the lowest pension as defined in accordance with Article 72 of this Law.

2. A monetary compensation for a physical impairment shall be established according to the percentage of the physical impairment at the appropriate percentage of the base, which amounts to:

For physical impairment of	Grade	Monetary compensation expressed as percentage of the base:
100%	1	60%
90%	2	54%
80%	3	48%
70%	4	42%
60%	5	36%
50%	6	30%
40%	7	24%
30%	8	18%

Article 72c

1. A policy holder shall be entitled to the monetary compensation as from the occurrence of the physical impairment if a claim for compensation has been filed within six months from the date of the occurrence of the physical impairment. If the claim has been filed after the expiry of the prescribed time-limit, the policy holder shall be entitled to the monetary compensation as from the first day of the month following the claim filing and for six months retroactively.

Article 72d

1. If a policy holder has acquired for the same case of a physical impairment the entitlement to the monetary compensation under this Law and under other regulations, he/she may use one of the entitlements as he/she chooses.

Article 10

1. In Article 128, Paragraph 1, the words: “the Payment Operations Bureau of the Federation of Bosnia and Herzegovina” shall be replaced by the words: “the authorised organisations

in charge of payment operations”.

Article 11

1. This Law shall be published without delay in the Official Gazette of the Federation of Bosnia and Herzegovina and shall enter into force 21 days after the date of such publication.

Sarajevo, 12 November 2000	Wolfgang Petritsch
	High Representative

Office of the High Representative