

Decision Enacting Amendment to the Statute of the City of Mostar

In the exercise of the powers vested in the High Representative by Article V of Annex 10 (Agreement on Civilian Implementation on 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 the Peace Agreement throughout Bosnia and Herzegovina and its Entities which "may include actions against persons holding public office or officials ... who are found by the High Representative to be in violation of legal commitments made under the Peace Agreement or the terms for its implementation";

Deploring that more than one year has passed since the Local Elections were held and the Mostar City Council constituted and that the City Mayor of the City of Mostar has yet to be elected;

Noting that certain political stakeholders in the Mostar City Council, by their conduct, placed individual and party interests above the interests of citizens and therefore abused the trust of their voters and citizens in general;

Noting further that the City Council's failure to appoint the City Mayor and to adopt the City Budget represents a long - term damage to the City and its citizens and has led to a rapidly deteriorating situation in which the Mostar City employees are not receiving salaries and public services are at risk of coming to a standstill;

Recalling that, at its meeting held in Sarajevo on 26 March 2009, the Steering Board of the Peace Implementation Council, after reviewing the situation in Mostar, concluded that it is unacceptable that the Mostar City Council has failed to appoint a new Mayor almost six months after the elections and urged the parties elected to the City Council to meet this basic obligation to the citizens of Mostar without any further delay;

Bearing in mind the letter of the Acting High Representative of 11 March 2009, by which he addressed to the representatives of the respective political parties to draw their attention to the fact that the situation in the City of Mostar was untenable and warned that the High Representative could have to take certain measures to remedy such situation;

Recalling further that, at its meeting held in Sarajevo on 30 June 2009, the Steering Board of the Peace Implementation Council called on the High Representative to take further steps to facilitate the election of a new Mayor;

Recalling to the High Representative's Decision of 30 October 2009, by which he repealed the Conclusion of the City of Mostar on public ballot and ordered election for the City Mayor by secret ballot, in accordance with the Statute of the City of Mostar;

Having in mind that none of the seventeen attempts to elect the City Mayor of Mostar in the last year has been successful;

Recalling again that, at its meeting held in Sarajevo on 19 November 2009, the Steering Board of the Peace Implementation Council, after reviewing the situation in Mostar, supported the High Representative in the action he has taken to address the political stalemate in Mostar, and invited him to consider what further steps can be taken to facilitate resolution of the political stalemate in Mostar;

Regretting to be forced to act on behalf of the local authorities in order to enable the functioning of the institutions of the City of Mostar;

Convinced that this decision does not release the elected councilors from their obligations to elect a Mayor and subsequently adopt the City budget and that the political stakeholders in the Mostar City Council must finally act in accordance with their responsibilities towards the citizens;

Mindful that the City of Mostar has yet to adopt a budget for 2009 and that the failure of the City Council of the City of Mostar to elect a Mayor has prevented such adoption, thus undermining the functionality of the City institutions;

Noting that the paralysis of the institutions in Mostar is preventing them from preparing the budget for 2010 in the timelines prescribed by law;

Further convinced that the absence of budget for the City of Mostar for 2009 can be solved under existing legislation once a new Mayor is appointed;

Noting in particular Article 18 of the Law on Principles of Local Self-Government in the Federation of Bosnia and Herzegovina and paragraph 3 thereto which provides for a manner of proclaiming the budget in units of local self-government in case of failure to adopt the budget within a timeframe of 90 days from the beginning of the budget year.

Having considered, borne in mind and noted all the matters aforesaid, the High Representative hereby issues the following:

DECISION

Enacting Amendment to the Statute of the City of Mostar

(Official Gazette of the Herzegovina-Neretva Canton no. 1/04 and the Official Gazette of the City of Mostar no. 4/04) and ordering Election of the City Mayor of the City of Mostar and adoption of the City Budget of the City of Mostar

1. The Amendment to the Statute of the City of Mostar set out hereunder are hereby enacted and form an integral part of this Decision. This Amendment shall enter into force on an interim basis until adopted by the City Council of the City of Mostar in due form, without amendments and with no conditions attached.
2. The Speaker of the City Council is hereby directed to convene a session within three (3) days from the entry into force of this Decision and to ensure that election of the Mayor of the City of Mostar is conducted at that session.
3. The Mostar City Mayor shall propose a City Budget for 2009 and the Decision on the execution of the City Budget for 2009 within three (3) days after his/her election to the position of the City Mayor.
4. The Speaker of the City Council shall, within three (3) days following the proposal of the City Budget made under Item 3 of this Decision, convene a session to consider adoption of the Budget for 2009.
5. All political parties represented in the City Council shall ensure that their Councilors in the City Council attend and actively participate in the sessions of the Mostar City Council referred to in Item 2 and 4 of this Decision.
6. For the avoidance of doubt, should the City Council fail to adopt the City Budget for 2009 at the session convened pursuant to Item 4 of this Decision, the Mayor shall use his legal prerogative to proclaim the budget, in accordance with Article 18 paragraph 3 of the Law on Principles of Local Self-Government in the Federation of Bosnia and Herzegovina and after considering the objections that prevented the adoption of the budget by the City Council.
7. This Decision and the amendment that forms an integral part thereof shall enter into force on the day following its publication on the official website of the Office of the High Representative and shall be published in

the Official Gazette of Herzegovina-Neretva Canton and the Official Gazette of the City of Mostar without delay.

Sarajevo, 14 December 2009

Dr. Valentin Inzko
High Representative

Amendment to the Statute of the City of Mostar

(Official Gazette of the Herzegovina-Neretva Canton no. 1/04 and the Official Gazette of the City of Mostar no. 4/04)

Article 1

In Paragraph 5 of Article 44, the sentence "In the third round, a simple majority of the elected City Councilors shall be required to elect a Mayor from the remaining two candidates" is amended to read:

"In the third round, a simple majority of the City Councilors who are present and voting shall be required to elect a Mayor from the remaining two candidates".