Decision Enacting the Amendments to the Law Establishing the Company for the Transmission of Electric Power in Bosnia and Herzegovina

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 (hereinafter: General Agreement for Peace), 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 Article II.1 (d) of the last said Agreement, which requests from the High Representative to facilitate the resolution of any difficulties arising in connection with civilian implementation of the General Framework Agreement for Peace in Bosnia and Herzegovina;

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";

Bearing in mind that the Steering Board of the Peace Implementation Council, in its communiqué issued at the meeting held in Sarajevo on 24-25 June 2008, declared that statements and actions that undermine the state or seek to roll back reforms will not be tolerated by the PIC Steering Board and the High Representative, and may be acted upon accordingly and that such actions and statements will also be considered by the PIC Steering Board when assessing the situation.

Recalling the statement made by the Ambassadors of the Steering Board of the Peace Implementation Council on 12 October 2008 concerning a conclusion adopted by the RS Government to begin the process of revoking approval for the Law on Electricity Transmission, Regulator and System Operator in BiH and cancelling the Agreement on Transmission Company and Independent System Operator between the entity prime ministers in BiH by which they reminded the RS Government of the clear position set out by the PIC Steering Board in its Declaration of 31 October 2007 regarding possible unilateral action of this nature by the entities, when it noted that "the PIC Steering Board also re-emphasises its concern regarding suggestions that certain reforms could be reversed unilaterally by entity decisions retrieving competencies previously transferred to the state. An entity cannot withdraw unilaterally from a previously agreed reform."

Noting that the Steering Board of the Peace Implementation Council, in its communiqué of the meeting held in Sarajevo on 30 June 2009, noted with concern that operations of Transco BiH have seriously deteriorated as a result of the continued boycott by the RS authorities of the Management Board and urges the RS Government to promptly and constructively reengage in the company and contribute to its smooth functioning, in line with the commitments of 6 November 2008 and 3 December 2008;

Cognizant ofthe significance of Elektroprenos Bosne i Hercegovine, Stock Company Banja Luka (hereinafter referred as to Elektroprenos BiH) and its operations which are of public interest;

Recalling that the Law Establishing the Company for Transmission of Electric Power in Bosnia and Herzegovina stipulated that *upon the establishment of the Company no other electric or other company shall have authority to engage in such transmission of electric power or transmission related activities;*

Deploring that the mandate of four members of the Management Board expired more than a year ago as well as the fact that the term of the General Director of Elektroprenos BiH shall be expiring on the 19th September 2009 and that so far there were no attempts of the managing bodies of the company to initiate the appointment procedure to the aforementioned positions;

Emphasizing the principle of continuity of function under which the mandate of an office holder continues until a replacement is appointed except otherwise provided by law;

Considering that the Law Establishing the Company for Transmission of Electric Power expressly incorporates the aforementioned principle with respect to the members of the Management Board by stating that each member of the Management Board should hold office until the expiration of the term for which he or she is appointed, until the appointment of his or her successor or until removal and that all such members may act in full capacity and perform all the duties defined by the Law until the appointment of new member of the Management Board;

Considering further that the Law Establishing the Company for the Transmission of Electric Power in Bosnia and Herzegovina does not regulate the case of expiration of mandate of the General Director of Elektroprenos BiH;

Concerned that in spite of the fact that there is no legal obstacle for the Management Board of Elektroprenos BiH to perform all its duties and to appoint a new General Manager in accordance with the Law Establishing the Company for Transmission of Electric Power, it did not even initiate such an appointment;

Regretting the fact that the High Representative is compelled to act on behalf of the local authorities in order to ensure the continued operations of Elektroprenos BiH;

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

DECISION

Enacting the Amendments to the Law Establishing the Company for the Transmission of Electric Power in Bosnia and Herzegovina

(Official Gazette of Bosnia and Herzegovina no. 35/04)

The Law shall enter into force on an interim basis, until such time as the Parliamentary Assembly of Bosnia and Herzegovina adopts this Law in due form, without amendment and with no conditions attached.

This Decision and the Law which follows and which forms an integral part of this Decision shall be published on the official website of the Office of the High Representative and shall enter into force on the day following such publication. This Decision shall be published in the “Official Gazette of Bosnia and Herzegovina” without delay.

The members of the management board are hereby ordered to initiate appointment of a new General Director forthwith.

Sarajevo, 18 September 2009

Dr. Valentin Inzko

High Representative

LAW ON AMENDMENTS TO THE LAW ESTABLISHING THE COMPANY FOR TRANSMISSION OF ELECTRIC POWER IN BOSNIA AND HERZEGOVINA

(Official Gazette of Bosnia and Herzegovina no. 35/04)

Article 1

In Article 38 *"Mandate of the General Director"*, new paragraphs (2), (3), and (4) shall be added to read as follows:

(2) Notwithstanding paragraph 1 of this Article, the General Director shall hold office and perform all his or her duties as specified by this Law until the appointment of his or her successor, or until his or her removal.

(3) The executive director responsible for system planning and engineering shall perform all the duties of the General Director until the appointment of new General Director in case the General Director:

a) Resigns,

b) is removed in accordance with Article 32 of this Law,

c) is absent without justified reasons for five

consecutive days,

d) or is otherwise incapacitated.

(4) The Management Board shall, whenever informed by a member of the management, urgently convene and decide, by simple majority, whether the conditions for the application of paragraph 3, item c) and d) are met, provided that at least four members are present at the meeting of the Management Board.

Article 2

This Law shall be published on the official website of the Office of the High Representative and shall enter into force on the day following its publication. It shall be published in the “Official Gazette of Bosnia and Herzegovina” without delay.