

Decision Enacting the Law on Amendments to the Law on Financing of the Institutions of Bosnia and Herzegovina ("Official Gazette of Bosnia and Herzegovina" nos. 61/04, 49/09, 42/12, 87/12, 32/13 and 38/22)

n. 19/25

In the exercise of the powers vested in the High Representative 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 (GFAP), 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”;

Recalling further that the Security Council of the United Nations has repeatedly affirmed, through its resolutions adopted pursuant to Chapter VII of the Charter of the United Nations, that the role of High Representative as final authority in theatre regarding the implementation of Annex 10 to the GFAP includes the “authority to make binding decisions as he judges necessary on issues as elaborated by the Peace Implementation Council in Bonn on 9 and 10 December 1997”;

Concerned that Bosnia and Herzegovina is currently facing multiple arbitration claims under bilateral investment protection agreements and that these claims pose a significant risk to the financial sustainability of Bosnia and Herzegovina and noting the absence of a legal mechanism to enforce arbitral decisions in a manner that preserves the institutional integrity and operational stability of the state;

Noting that, this situation reveals a structural gap in ensuring that liabilities arising from the actions of the responsible entity are borne by that entity and that the initiation of enforcement proceedings against Bosnia and Herzegovina, particularly those seeking payment from the state budget, directly threatens the financial interests and assets of key institutions, including the Central Bank of Bosnia and Herzegovina and the Air Navigation Services Agency (BHANSA). Such proceedings jeopardize not only the normal functioning of these institutions but also the country’s standing in international financial relations;

Further noting that these enforcement actions negatively impact the allocation of funds required by the Central

Election Commission for the introduction of election technologies in the electoral process – essential for strengthening election integrity and transparency in line with international democratic standards. This concern is heightened by the fact that the 2025 budget for the institutions of Bosnia and Herzegovina and its international obligations has yet to be adopted, and the current draft budget of the institutions of Bosnia and Herzegovina and international obligations of Bosnia and Herzegovina does not envisage funding for procurement of election technologies;

Mindful of the recent developments concerning the decision of the International Centre for Settlement of Investment Disputes (ICSID) in the arbitration case Viaduct d.o.o. Portorož, Vladimir Zevnik and Boris Goljevsček v. Bosnia and Herzegovina (Case No. ARB/16/36), including the decision of 18 April 2022 and its annulment decision of May 2024 (hereinafter referred to as: ICSID Decision), which confirmed the claimants' right to compensation in the amount of EUR 39.8 million plus interest calculated at the WACC rate from November 2021 and May 2024 until full payment;

Aware that this obligation for compensation arises under the bilateral Agreement on the Reciprocal Promotion and Protection of Investments between Bosnia and Herzegovina and the Republic of Slovenia, ratified in January 2002 ("Official Gazette of BiH", No. 2/02), which was concluded to promote and protect investments by guaranteeing fair and equitable treatment and by explicitly granting ICSID jurisdiction for resolving the investment disputes whose resolution has not been reached amicably;

Recalling that the ICSID Decision clearly determined that the authorities of the Republika Srpska were solely responsible for the damages caused by awarding a concession in 2004 for the construction of two hydropower plants on the Vrbas River and for unilaterally terminating that concession in 2016; and that Bosnia and Herzegovina and its institutions were neither

involved in these actions nor gave approval for them, while the Republika Srpska has never disputed its role or responsibility in the matter;

Noting that in 2017, Bosnia and Herzegovina (represented by the then Chairman of the Council of Ministers, Mr. Denis Zvizdić) and Republika Srpska (represented by the then Prime Minister, Ms. Željka Cvijanović) concluded an Agreement on Mutual Rights and Obligations regarding the arbitration proceedings in this case (published in “Official Gazette of BiH”, No. 54/17, hereinafter referred to as: 2017 Agreement);

Further noting that under this 2017 Agreement, the Government of Republika Srpska undertook full responsibility to cover all costs of legal and arbitration proceedings, including any financial obligations arising from the final ICSID decision, and explicitly committed to pay all compensation amounts on behalf of Bosnia and Herzegovina within the specified deadlines, upon receipt of a documented request from the Attorney General’s Office;

Considering that, despite repeated payment requests submitted by the Attorney General’s Office in accordance with the 2017 Agreement, Republika Srpska has failed to comply with its obligations, resulting in the initiation of enforcement proceedings against Bosnia and Herzegovina, which seek payment from the budget of Bosnia and Herzegovina and affect the country’s international financial responsibilities, and that these enforcement actions also threaten the property and financial interests of Bosnia and Herzegovina and its institutions;

Taking into account that enforcement actions – both domestic and international – put at risk not only the regular operation of state institutions, but also the assets of the Central Bank of Bosnia and Herzegovina, including regional office buildings, as confirmed by first-instance court decisions in Mostar (20 March 2025) and Banja Luka (4 June 2025), and the

financial interests of the Bosnia and Herzegovina as confirmed by first-instance court decision in Sarajevo as well as financial interests of Air Navigation Services Agency (BHANSA), whose revenues have been frozen by EUROCONTROL following a decision by the competent authority in Brussels;

Recognizing the efforts undertaken by the authorities of Bosnia and Herzegovina to implement the ICSID Decision by seeking to allocate payment from the state budget and international obligations of Bosnia and Herzegovina. These efforts aimed not only to eliminate the immediate threat to the functioning of key state institutions but also to prevent the accumulation of interest on the principal financial obligation—an accumulation which increasingly hampers Bosnia and Herzegovina's ability to meet this obligation with each passing day;

Noting, however, that these efforts have not yielded the intended result. Specifically, the Central Bank of Bosnia and Herzegovina rejected the Ministry of Finance and Treasury's proposal to pay the financial obligation from the Bank's profits. The Central Bank based its decision on its legal duty to protect its assets and operations, given the ongoing enforcement proceedings before several domestic courts—including those in Mostar and Banja Luka, that present an imminent risk to its property;

Considering that, as of now, the 2025 budget for the institutions of Bosnia and Herzegovina and the international obligations of Bosnia and Herzegovina has not yet been adopted, and that the draft budget does not include any allocation for the payment of the ICSID-related obligation, since the liability originated from actions of the authorities of Republika Srpska, and that the 2025 Budget of Republika Srpska also includes no provision for fulfilling this obligation;

Further considering that revenue from the settlement reserve

road toll, accumulated in a special account at the Central Bank of Bosnia and Herzegovina, remains blocked due to the absence of an agreed methodology for distribution among the entities within the Governing Board of the Indirect Taxation System;

Emphasizing that the intention herewith is neither to acknowledge nor to settle the foreign investor's claim, as said claim has already been acknowledged and recognized by the competent domestic courts and the 2017 Agreement between the Council of Ministers of Bosnia and Herzegovina and the Government of Republika Srpska. Rather, the intent is to identify the source of funding necessary for the fulfillment of the obligations of Republika Srpska, and to remove obstacles to the adoption of the 2025 budget of the institutions of Bosnia and Herzegovina and international obligations of Bosnia and Herzegovina.

Notwithstanding the intended use of these funds as set out in Article 21(3) of the Law on Indirect Taxation System ("Official Gazette of BiH", Nos. 55/04, 34/07, 49/09, 91/17), this reserve constitutes the only available source of funds sufficient to implement the ICSID Decision. It is presumed that the amount required for enforcement approximately corresponds to the share of Republika Srpska in these revenues, and that using these funds will not disrupt the fiscal balance of any level of government. In this exceptional case, the use of this source of funds must be considered;

Acknowledging the possibility that, once a distribution methodology for road tolls is adopted, payment of Republika Srpska's obligation from the currently held toll revenue—which includes shares for the Federation of Bosnia and Herzegovina, Republika Srpska, and the Brčko District—might result in an overpayment relative to Republika Srpska's eventual entitlement. In such a scenario, Republika Srpska would not receive any further disbursements from this source until the Federation and/or the Brčko District are fully compensated for

any resulting claims, in line with the final distribution settlement;

Expressing concern that the ICSID Decision poses not only a direct risk to the budget of the institutions of Bosnia and Herzegovina and the international obligations of Bosnia and Herzegovina but also exposes the absence of a legal mechanism in the country that would enable the enforcement of such decisions without compromising the integrity and functioning of state institutions. This highlights a structural gap in ensuring that liabilities resulting from the actions of a responsible entity are duly settled by that entity. Furthermore, according to Act No. 01-07-2-PBiH-63/25 submitted by the Attorney General's Office to the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina on 24 April 2025, the country is facing several additional investor arbitrations claims under bilateral investment treaties, with potential claims for monetary compensation exceeding BAM 1.5 billion;

Given that Bosnia and Herzegovina lacks a legal mechanism to compel payment of compensation by the authority responsible for breaching Bilateral Investment Agreements—and in light of Republika Srpska's refusal to comply with arbitral awards in the Viaduct case, despite its obligations under the 2017 Agreement with Bosnia and Herzegovina on mutual rights and duties in that proceeding;

Further noting that the Bilateral Investment Agreement requires Bosnia and Herzegovina to ensure legal protection of the investment, and that the Constitution (Article III.2.b) obliges entities to fully assist the State in meeting its international obligations, it is necessary for Bosnia and Herzegovina to adopt legislative measures to guarantee full enforcement of arbitral awards by lower levels of authority in the interest of investors

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

DECISION

Enacting the Law on Amendments to the Law on Financing of the Institutions of Bosnia and Herzegovina ("Official Gazette of Bosnia and Herzegovina" nos. 61/04, 49/09, 42/12, 87/12, 32/13 and 38/22)

1. The Decision Enacting the Law on Amendments to the Law on Financing of the Institutions of Bosnia and Herzegovina shall come into effect immediately and shall be published on the official website of the Office of the High Representative and in the "Official Gazette of Bosnia and Herzegovina" without delay.
2. The Law on Amendments to the Law on Financing of the Institutions of Bosnia and Herzegovina, which forms an integral part of this Decision, shall enter into force as provided for under Article 10 thereof on an interim basis until such time as the Parliamentary Assembly of Bosnia and Herzegovina adopts it in due form.
3. Upon the execution of the instruction provided for in paragraph 7 of this Decision, it shall be considered that reasons for withholding the profits of the Central Bank of Bosnia and Herzegovina no longer exist and consequently the profits shall be allocated according to

relevant provisions of the Law on Central Bank of Bosnia and Herzegovina ("Official Gazette of Bosnia and Herzegovina", 1/97, 29/02, 8/03, 13/03, 14/03, 9/05, 76/06, 32/07". The profit of the Central Bank of Bosnia and Herzegovina as established by the BiH Central Bank's Governing Board shall be allocated:

- to the Central Election Commission of Bosnia and Herzegovina in the amount specified by the Final Report on the Implemented Pilot Projects Introducing of New Technologies in Election Process in Bosnia and Herzegovina and Feasibility Study for Introduction of Specific Elections Technologies in the Election Process in Bosnia and Herzegovina of 28 February 2025. This allocation shall cover in full the costs of procuring election technologies to be introduced in 2026 General Elections.

The funds remaining after the allocation in accordance with paragraph 3 of this Decision shall be allocated to the 2025 Budget of the Institutions of Bosnia and Herzegovina and International Obligations of Bosnia and Herzegovina to the benefit of the institutions of Bosnia and Herzegovina.

4. Upon submission of the specified budgetary request by the Central Election Commission of Bosnia and Herzegovina, the Minister of Finance and Treasury of Bosnia and Herzegovina shall be obliged to make available the indicated funds to the respective or designated accounts without delay, regardless of the status of the adoption of the 2025 Budget of the Institutions of Bosnia and Herzegovina and International Obligations of Bosnia and Herzegovina. Should the Minister fail to execute the allocation within seven (7) days of receiving the relevant request, the Deputy Minister shall be obligated to proceed with the

allocation.

5. The amount designated in accordance with this Decision shall be incorporated in the proposal of as well as in the 2025 Budget of the Institutions of Bosnia and Herzegovina and International Obligations of Bosnia and Herzegovina.
6. Notwithstanding the designated purpose of road toll revenues as set forth in Article 21(3) of the Law on the Indirect Taxation System in Bosnia and Herzegovina ("Official Gazette of Bosnia and Herzegovina", 44/03, 52/04, 32/07, 34/07, 4/08, 50/08, 49/09, 32/13, 91/17) and exclusively for the purpose of implementing the decision of the International Centre for Settlement of Investment Disputes (ICSID) in Case No. ARB/16/36 – Viaduct d.o.o. Portorož, Vladimir Zevnik, and Boris Goljevšček v. Bosnia and Herzegovina—dated 18 April 2022, including the subsequent ICSID decision of 1 May 2024, the amount of 120 million convertible marks (BAM) which should roughly correspond to the obligation established therein and which includes the principal debt, interest and the procedural costs, shall be deducted from the accumulated road toll settlement reserve held in a special account at the Central Bank of Bosnia and Herzegovina. This deduction shall be deemed to correspond to the share of Republika Srpska and shall be transferred to the Ministry of Finance and Treasury of Bosnia and Herzegovina with a sole purpose of implementing the ICSID decision as specified herein.
7. Upon transfer of the specified funds to the the account provided by the Ministry of Finance and Treasury of Bosnia and Herzegovina, the funds shall be deemed available to the enforcement creditor (Viaduct et al), and no further interest shall accrue or be paid in

accordance with this Decision. The Minister of Finance and Treasury of Bosnia and Herzegovina shall, acting with due diligence, release the funds without delay upon receiving a valid request from the enforcement creditor. The Central Bank of Bosnia and Herzegovina shall transfer to the Ministry of Finance and Treasury of Bosnia and Herzegovina an equivalent amount from the same source to be promptly allocated to the Federation of Bosnia and Herzegovina. Should the Minister fail to execute the allocations within seven (7) days of receiving the valid request, or upon the receipt of the account details from the Ministry of Finance of the Federation of Bosnia and Herzegovina, the Deputy Minister shall be obligated to proceed with the allocations.

8. The Attorney General of Bosnia and Herzegovina, the Central Bank of Bosnia and Herzegovina and BHANSA shall immediately undertake actions towards terminating enforcement proceedings against financial interests and assets of Bosnia and Herzegovina and its institutions.
9. The amounts disbursed pursuant to paragraph 7 of this Decision to the enforcement creditor as well as any remaining amount of the BAM 120 million which shall serve to repay any procedural costs incurred from the budget of the institutions of Bosnia and Herzegovina and international obligations of Bosnia and Herzegovina shall not constitute a future claim by Republika Srpska against the account designated for road toll revenues, the Federation of Bosnia and Herzegovina, or the Brčko District of Bosnia and Herzegovina. Such disbursed amounts shall be deemed expended by Republika Srpska, and any funds required to fulfil the purposes stipulated under the Law on the Indirect Taxation System of Bosnia

and Herzegovina, in the amount of payment made in accordance with paragraph 7 of this Decision, shall be secured from Republika Srpska's own financial resources, including its budget.

10. Upon the adoption of the methodology for the distribution of road toll in accordance with the Law on the Indirect Taxation System in Bosnia and Herzegovina ("Official Gazette of BiH", No. 55/04, 34/07, 49/09, 91/17) by the Governing Board, the necessary settlements will be carried out between the entities and Brcko District of Bosnia and Herzegovina taking into account the amounts paid in accordance with paragraph 7 of this Decision. In the event that due to the enforcement of the ICSID Decision, more was paid from the settlement reserve than would have belonged to Republika Srpska after the final settlement and following the adoption of the methodology for the distribution of road tolls by the Governing Board, the collected tolls will not be distributed to Republika Srpska until the potential claims of both Federation of Bosnia and Herzegovina and Brcko District of Bosnia and Herzegovina are fully settled, which the Indirect Taxation Authority shall be obliged to implement irrespective of additional orders or instructions of the competent authorities.

Sarajevo, 17 July 2025

Christian
Schmidt
High Representative

Law on Amendments to the Law on Financing of the Institutions of Bosnia and Herzegovina

Article 1

In the Law on Financing of the Institutions of Bosnia and Herzegovina ("Official Gazette of Bosnia and Herzegovina", 61/04, 49/09, 42/12, 87/12, 32/13, 38/22) Article 2 (Definitions), paragraph (1), subparagraph j) shall be amended to read:

"j) Expenditures: represent the decreasing of budgetary resources and comprise inter alia: current expenses such as salaries and employee compensations, expenses for material and services, expenses for insurance and banking services and contracted services, all debt servicing, as well as servicing financial obligations arising from final and enforceable court decisions or final and enforceable decisions of other relevant bodies in which Bosnia and Herzegovina is designated as the debtor, current grants, capital expenses, grants to other levels of government, subsidies, and donations."

Article 2

Article 8 (Contents of the Budget), paragraph (2) subparagraph b) item 3 shall be amended by adding the following text at the end of the current provision to read:

"including the data on servicing the financial obligations arising from final and enforceable court decisions or final and enforceable decisions of other relevant bodies in which

Bosnia and Herzegovina is designated as the debtor, if the enforcement of such an obligation is carried out from the budget of the institutions of Bosnia and Herzegovina and the international obligations of Bosnia and Herzegovina.”

Article 3

Article 14 (Expenditures) shall be amended to add new paragraph (9) to read:

“(9) Where Bosnia and Herzegovina is designated as the debtor pursuant to a final and enforceable court decision or a final and enforceable decision of another competent authority, rendered on the basis of a bilateral or multilateral international agreement to which Bosnia and Herzegovina is a party, and where the underlying liability arises from an investment or commercial contractual relationship concluded by an authority of an entity, the Brčko District of Bosnia and Herzegovina, or a lower-level authority with a foreign investor, and where such liability results from an act or omission of such authority as established in the said decision, the authority responsible for such act or omission (hereinafter: the actual debtor) shall, without delay and no later than 30 (thirty) days from the date on which the decision becomes final and enforceable, provide the necessary funds for the enforcement of the decision or directly settle the financial obligation with the enforcement creditor. Expenditures arising from the enforcement of such financial obligations may be executed through the Central Bank of Bosnia and Herzegovina, using funds secured in accordance with paragraph (7) of this Article and Article 13, paragraph (3) of this Law, on the basis of the agreement referred to in paragraph (8) of this Article.”

Article 4

After Article 14, new Article 14a shall be added to read:

“Article 14a

(Contract with a foreign investor)

In concluding contracts with foreign investors, irrespective of whether the foreign investor has a registered subsidiary in Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, Republika Srpska, the Brčko District of Bosnia and Herzegovina, or any other level of government shall be required to include a provision expressly and unambiguously stating that all liabilities for any damages arising from such contract shall be borne exclusively by the respective contracting authority.”

Article 5

This Law shall enter into force on the eighth day after its publication on the official website of the Office of the High Representative or the day following its publication in the “Official Gazette of Bosnia and Herzegovina”, whichever comes first.