Decision Enacting The Law On Amendments To The Law On The Banking Agency Of The Federation Of Bosnia And Herzegovina

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, 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 Banking Agency Law does not provide clear authority for the Banking Agency to act in regard to measures to fight the financing of terrorist related activities;

Further considering that anti-terrorist actions are supported inter alia by Decisions of the Council of Ministers of Bosnia and Herzegovina of 20 and 25 September 2001 and by the UN Security Council Resolution 1373 of 28 September 2001 on this matter;

Bearing in mind that the Federation Banking Agency law does not explicitly provide protection to the Banking Agency itself and its Managing Board for liability arising from the normal performance of their duties;

Taking into account that such protection as aforesaid is customary and necessary for a strong and independent supervisory function and that such protection is one of the key "Pre-conditions for Effective Bank Supervision" established by the Basle Committee and supported by most western countries;

Noting that exposure to threats and acts of intimidation would interfere with the Banking Agency's exercise of authority, independence and supervisory actions, and would further distract and reduce the pace of examinations and cripple the ability of the Agency to supervise the banking sector;

Concluding that without such internationally recognized protection and due process, a banking agency cannot operate as a fully independent regulatory agency.

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

DECISION

ENACTING THE LAW ON AMENDMENTS TO THE LAW ON THE BANKING AGENCY OF THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Law which follows, and of which this Decision forms an integral part, shall come into effect pursuant to article 3 thereof but on an interim basis until such time as the Federation Parliament adopts the same in due form, without amendment and with no conditions attached. This Decision shall come into effect forthwith and shall be published without delay in the Official Gazette of the Federation of Bosnia and Herzegovina.

Sarajevo, October 2002

Paddy Ashdown
High Representative

THE LAW ON AMENDMENTS TO THE LAW ON THE BANKING AGENCY OF THE FEDERATION OF BOSNIA AND HERZEGOVINA

(Official Gazette of the Federation No. 9/96; 27/98;20/00; and 45/00)

Article 1

In Article 4, after item f, a new item “g” shall be added as follows:

“g) performing actions in the support of anti-terrorist measures related to banks upon request of an authorized body, based on appropriate law or in accordance with special resolutions of the UN Security Council, or in cooperation with relevant institutions in regard to this matter”.

Article 2

In Article 5, Paragraph 2, after the words “From the

establishment of the Agency", the following words shall be added: " the Agency, the Managing Board of the Agency".

Article 3

This Law shall enter into force on the eighth day after it is published in the "Official Gazette of the Federation of Bosnia and Herzegovina".