

Decision Enacting the Law on Further 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”;

Mindful of the fact that the peace implementation process, which continues to be pursued under the aegis of the General Framework Agreement for Peace in Bosnia and Herzegovina, is not yet complete;

Further mindful of the fact that the peace implementation process requires to be completed in order that a stable political and security environment in Bosnia and Herzegovina is established which is conducive, inter alia, to fundamental economic reform and to the return of refugees and displaced persons;

Considering that the business environment and the peace implementation process requires a sound and reliable banking system where banks are subject to strict rules inter alia with respect not only to fighting against terrorism but also in respect of those individuals who, or legal persons or bodies which, obstruct or threaten to obstruct or pose a significant risk of actively obstructing the implementation of the peace process; or who or which materially assist in, sponsor, or provide financial or technological support for, or goods and services in support of such obstructionism; or which are owned or controlled by, or act or purport to act directly or indirectly for or on behalf of, any of the foregoing;

Considering that the Federation Banking Agency requires to be provided with clear authority to take action so as to cut off sources of financial support for action which is obstructive of the peace implementation process.

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 FURTHER 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 itself come into effect forthwith and shall be published without delay in the Official Gazette of the Federation of Bosnia and Herzegovina.

Sarajevo, 7 March 2003

Paddy Ashdown
High Representative

THE LAW ON FURTHER 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; 45/00 and 58/02)

Article 1

In Article 4, after item g, new items "h" through "l" shall be added as follows:

"h) taking all such actions as may be appropriate, which may include the blocking of customer accounts in any bank or banks throughout the Federation of Bosnia and Herzegovina or otherwise within the jurisdiction of the Federation Banking Agency, in order to prevent the funding of activities which are, or which threaten to be, obstructive of the peace implementation process as pursued under the aegis of the General Framework Agreement for Peace in Bosnia and Herzegovina;

i) requiring the Central Bank of Bosnia and Herzegovina to open a special reserve account in the name of any commercial bank that has customer accounts of any customer identified under item h aforesaid, or accounts to which like action under item g aforesaid hereof is taken;

j) requiring the bank or banks in which accounts are blocked under item h aforesaid, to transfer the amount of funds contained in such accounts, or accounts to which like action under item g aforesaid hereof is taken, to the safe keeping of the Central Bank of Bosnia and Herzegovina, or one of its main units;

k) drawing up, and causing to be published in the Official Gazette of the Federation of Bosnia and Herzegovina at monthly intervals, a list of accounts blocked under items g and h hereof;

l) forwarding to the Central Bank of Bosnia and Herzegovina all information related to actions taken under Article 4(g) to (j) inclusive of this Law, as well as all information related to attempted transactions to or from blocked customer accounts as of the effective date of the blocking order."

Article 2

New final paragraphs shall be added to Article 4, which shall read as follows:

"For the avoidance of doubt it is specifically provided herein that the Banking Agency of the Federation, may, (without prejudice to the full range of measures available to it under the *Law on Banks of the Federation of Bosnia and Herzegovina*) revoke the license of a Bank that fails to comply with a blocking order or a requirement under Article 4 g through l of this Law.

Any individual, legal person or body, whether a Bank or otherwise, who or which deliberately or negligently acts in such manner as to lead to the evasion or attempted evasion of a blocking order as aforesaid, by transferring or seeking to transfer funds thereto or otherwise, shall itself, if a Bank, be liable to have its license revoked, and, if a holder of a bank account, be subject to having the same blocked and listed as aforesaid. Such individual, legal person or body shall further and in addition be liable to the imposition of an administrative fine as referred to in the following paragraph hereof.

Any individual, legal person or body, who or which deliberately or negligently acts in such manner as to lead to the evasion or attempted evasion of a blocking order as aforesaid, by transferring or seeking to transfer funds thereto or otherwise, shall itself, if not the holder of a bank account, nevertheless be subject to the imposition of an administrative fine by the Federation Banking Agency up to an amount double that involved in such attempted evasion, and the said Agency shall be entitled to enforce the same as a civil judgement debt.

Where an individual, legal person or body performs a transaction that avoids or evades a blocking order issued under Article 4(g) or Article 4(h) of this Law or attempts to perform such a transaction, the Agency shall be

empowered to call upon such individual, legal person or body to produce all documents related to the said transaction.

The said Agency shall be empowered to start the procedure with the authorized court (in the same manner as referred to in article 3 of the *Law on Banks of the Federation of Bosnia and Herzegovina*) of seizing the assets, books and records of any individual, legal person or body who or which deliberately acts in such manner as to lead to the evasion or attempted evasion of a blocking order as aforesaid, and to liquidate the business of such individual, legal person or body.”

Article 3

This Law shall enter into force forthwith and shall be published without delay in the “Official Gazette of the Federation of Bosnia and Herzegovina”.