Decision Establishing the Commission for Reforming 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 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 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";

Mindful of the need to consolidate the functional and legal unity of the City of Mostar in a manner that promotes efficiency in the delivery of services to citizens, promotes the fundamental rights of all citizens and ensures the collective rights of the constituent peoples, in accordance with European standards;

Convinced that a comprehensive settlement on the institutional organisation of the City of Mostar requires the continued engagement of the International Community;

Acknowledging the work of the Commission established by the City Council of on 15 April;

Noting that, in the context of the Commission established by the City Council, draft Statutes for the City of Mostar were produced which provide a good basis for further discussion on the future of Mostar;

Mindful of the guiding principles outlined in my letter to the Commission established by the City Council on 21 April 2003 which are intended as guidance for those working on the reform of the institutions of the City of Mostar.

Bearing in mind that the Constitutional Court ruled in its third partial Decision in case no. 5/98 of 30 June and 1 July 2000 (Official Gazette of Bosnia and Herzegovina no. 23/00 of 14 September 2000) that exclusion of one or other constituent peoples from the enjoyment not only of citizens' but also of peoples' rights throughout Bosniaand Herzegovina was in clear contradiction with the non-discrimination rules contained in the said Annex 4, which rules are designed to re-establish a multi-ethnic society based on equal rights of Bosniacs, Croats and Serbs as constituent peoples and of all citizens;

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

DECISION

Establishing the Commission for Reforming the City of Mostar

Article 1

The Commission for Reforming the City of Mostar (hereinafter, the Commission), which is hereby established, shall be responsible, as directed by the Chairman of the said Commission, for drafting and proposing amendment such legislation and related regulations, as may hereafter be required to be enacted by the institutions of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, the Herzegovina-Neretva Canton, the City of Mostar and the City-Municipalities respectively, in the field identified under this decision. The Commission shall also be responsible for drafting a plan for implementing such legislation and regulations.

Article 2

The Commission shall examine the legal measures necessary to reform the institutional structures in the City of Mostar, identify constitutional, legislative or other legal provisions at variance with such requirements and propose legislation and other legal instruments to remedy such variance.

Article 3

In accordance with Article 2 of this Decision, the Commission shall prepare the following legislation or amendments thereto, as appropriate:

1. The Statute of the City of Mostar;

2. The Constitution of the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of BiH No. 1/94, 13/97, 16/02, 22/02, 52/02, 60/02, 18/03) and the Constitution of the Hercegovina-Neretva Canton (Official Gazette of the Herzegovina-Neretva Canton No. 2/98, 3/98 and 4/00);

3. The Election Law of Bosnia and Herzegovina (Official Gazette of BiH No. 23/01, 7/02, 9/02, 20/02, 25/02);

4. The Law on Allocation of Revenues of the Federation of BiH (Official Gazette No. 26/96, 32/98, 54/01, 37/03);

5. The Law on Local-Self-Government of the Hercegovina-Neretva Canton (Official Gazette of the Herzegovina-Neretva Canton No. 4/00); and

6. Any other law or regulations as the Chairman deems necessary.

Article 4

The Commission shall be composed of up to twelve (12) members, including six representatives of political parties, a Chairman and up to five experts.

The High Representative will confirm all nominations made pursuant to this decision except the appointment made pursuant to article 5.

Article 5

The High Representative appoints an International Chairman to the Commission.

Article 6

The political parties represented in the Mostar City Council will each respectively nominate one representative for appointment to the Commission. The representatives of the political parties shall be empowered to speak and take decisions on behalf of their political parties.

The political parties represented in the Mostar City Council will each nominate an expert to assist their representatives in the Commission. The experts nominated by the political parties will not be members of the Commission. They will have

the right to intervene in discussions at the discretion of the Chairman but will not participate in decision-making.

Article 7

The Chairman will be entitled to nominate up to five experts for appointment to the Commission. When selecting these experts, two criteria will be borne in mind:

1. the relevant qualifications of the candidates, and

2. the necessity to ensure that the composition of the Commission as a whole gives proper representation to all constituent peoples as well as to the group of Others.

Article 8

The Chairman of the Commission shall be responsible for directing the work of the Commission, shall prepare a schedule of work and shall call meetings of the Commission, which may be held as required at locations throughout the City of Mostar.

No specific quorum shall be required in order to hold a meeting of the Commission.

The Chairman shall consider means for consulting the citizens of Mostar and may call for people outside the Commission to provide expertise and evidence at meetings of the Commission, as he deems necessary for the fulfillment of the mandate of the Commission as provided for in this Decision.

The Chairman may call for the formation of sub-working groups as he deems necessary for the fulfillment of the mandate of the Commission as provided for in this Decision.

Article 9

The Chairman of the Commission will report to the High Representative on a monthly basis on progress made within the

Commission.

Article 10

The Commission will make best efforts to achieve a comprehensive settlement concerning disputed questions pertaining to the organization of the City of Mostar by 15 December 2003.

Article 11

A list of legal provisions agreed upon by the Commission and a report on progress made will be sent by the Chairman of the Commission to the High Representatives, the Council of Ministers, the Government of the Federation of BiH, the Government of the Hercegovina-Neretva Canton as well as to the Mayor and Deputy Mayor of Mostar by 15 December 2003

Article 12

The Commission shall have such support staff and technical assistance as may be required.

Article 13

This Decision shall enter into force forthwith and shall be published without delay in the Official Gazette of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, the Herzegovina-Neretva Canton and the City of Mostar.

Sarajevo, 17 September 2003.

Paddy Ashdown
High Representative