

Decision ordering the transfer of ownership of the Battery Factory “AS” a.d -Srebrenica to the Foundation of the Srebrenica-Potocari Memorial and Cemetery and establishing an ad hoc Battery Factory “AS” a.d.- Srebrenica compensation Commission

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 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 the High Representative’s Decision of 25 October 2000 designating in perpetuity the piece of land situated at Potocari in the municipality of Srebrenica as a cemetery and as a solemn place for the erection of a memorial to those who met their deaths in the July 1995 genocide at Srebrenica;

Recalling the High Representative’s Decision of 10 May 2001 establishing the Foundation of the Srebrenica-Potocari Memorial and Cemetery whose objective is the construction and maintenance of the Srebrenica-Potocari Memorial and Cemetery;

Recalling and confirming all the matters set out in the preambles to the said Decisions and bearing in mind that the High Representative’s said Decisions were intended to be the first in a series of Decisions regulating the arrangements necessary to establish the cemetery and memorial;

Noting that the Battery Factory and its precincts which is in close proximity to the piece of land hereinbefore referred to, have a special place in the memory of families of the victims who lived through the genocide, as it is the area where their beloved relatives were separated from them before being taken to their death;

Taking into consideration that the Battery Factory and its precincts require to be a part of the piece of land hereinbefore referred to, in order to enable proper provision to be made for a memorial;

Further taking into consideration the wishes of the families of the victims to locate such memorial and the related support services at the Battery Factory and its precincts as aforesaid.

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

DECISION

ordering the transfer of ownership of the Battery Factory “AS” a.d -Srebrenica to the Foundation of the Srebrenica-Potocari Memorial and Cemetery and establishing an ad hoc Battery Factory “AS” a.d.- Srebrenica compensation Commission

Article 1

The ownership, represented by the total capital, of the Battery Factory “AS” a.d.- Srebrenica (hereinafter “the Battery Factory”) located in Potocari is hereby transferred as from the date hereof to the Foundation of the

Srebrenica-Potocari Memorial and Cemetery (hereinafter "the Foundation").

The ownership of the land upon which the Battery Factory was constructed and which is currently in possession of the Battery Factory, is likewise so transferred in perpetuity and designated as a place of memorial and use ancillary thereto. The transfer of ownership of the land shall not prejudice the Foundation in conjunction with any possible claim for refund of property from the formal-legal owners of the land.

Article 2

Each and every legal step required to be made or taken under the applicable laws of the Republika Srpska in order to effect such ownership transfer, is hereby deemed to have been made and taken in proper and due form as provided for by such laws, and the ownership transfer shall be duly implemented and treated as duly implemented by all bodies and agencies as well as by the courts of the Republika Srpska and throughout Bosnia and Herzegovina accordingly.

In addition each and every permission and step needed to implement the Decision herein, including the granting of all such permits and authorisations or otherwise as may be required to be given, granted or issued by the municipal or any other authority concerned are hereby deemed to have been duly and properly given, granted and issued as aforesaid.

All such permits, grants and authorisations shall likewise deemed to have been properly given, granted or issued as aforesaid by the appropriate responsible authorities with a view in addition to providing for the carrying out of all necessary land development and construction works, so that the Battery Factory may be and remain in perpetuity a memorial to those who died as aforesaid.

Article 3

The ownership transfer will result in the closing of all activities, whatever the purpose, performed in the facilities of the Battery Factory not later than 6 months from the date hereof.

Article 4

The ad hoc Battery Factory "AS" a.d.- Srebrenica compensation commission (hereinafter "the Commission"), which is hereby established, shall be responsible for assessing the financial compensation due to the shareholders of the Battery Factory and to the companies and/or small businesses that are currently renting spaces thereat.

In addition the Commission shall be empowered to consider any properly founded claim arising out of the process as described in the first sentence of Article 1 hereof. For avoidance of doubt the land boundaries in possession of the Battery Factory shall be those set out in the plans of the site which will be made available by the Office of the High Representative to the Commission by 15 April 2003. Such plans shall be treated as forming an integral part of this Decision.

The total compensation payable as determined by the Commission will be paid from the budget of the Republika Srpska.

Article 5

In assessing the compensation to the shareholders of the Battery Factory, the Commission shall take into consideration the following:

- In June 2001, the Directorate for Privatization in Republika Srpska carried out partial privatization of the state capital of the Battery Factory Srebrenica the changes in ownership and status of which were registered at the Primary Court in Bijeljina in September 2001;
- During the partial privatization, the overall capital was determined at KM 4,681,692.00. Individual investors and privatization investment funds have acquired 55% of the overall capital against vouchers. 15% of the overall capital was reserved automatically for pension and restitution funds. The remaining 30% of the overall capital is still state-owned.

Article 6

In assessing the compensation to the companies and/or small businesses which are renting space in the Battery Factory and precincts, the Commission shall take into consideration inter alia the written agreement made between each company/small business and the Battery Factory.

Article 7

The Commission shall be composed of three members to be appointed by the Minister of Finance of the Republika Srpska. Members shall be chosen on the basis of experience and professionalism in the field of economics, particularly in the area of privatization. The High Representative may appoint an observer. A Chairman shall be designated among the members by the Minister of Finance of the Republika Srpska.

Article 8

The Chairman shall be responsible for directing the work of the Commission, and s/he shall call meetings of the Commission, which may be held as required at locations throughout Bosnia and Herzegovina. At least two members shall be required in order to hold a meeting of the Commission.

Article 9

The Chairman may call for the participation of observers and/or international experts at meetings of the Commission, as s/he deems necessary for the fulfillment of the mandate of the Commission as provided for in this Decision.

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

Article 10

The Commission shall begin work no later than 15 April 2003.

The Commission shall complete its work by 15 July 2003, unless a specific request made to the High Representative by the Chairman for the extension of this deadline is granted.

The final report of the Commission shall be delivered to the Minister of Finance of the Republika Srpska and to the High Representative.

Article 11

This Decision shall enter into force forthwith and shall be published without delay in the Official Gazette of the Republika Srpska.

Sarajevo, 25 March 2003

*Paddy Ashdown
High Representative*