

Decision establishing and registering the Foundation of the Srebrenica-Potocari Memorial and Cemetery

In the exercise of the powers vested in me 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 massacre at Srebrenica;

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

Noting that, in the said Decision of 25 October 2000 it was stated that the High Representative would establish under the applicable local law such foundation or association as might be appropriate in order to administer and provide initial funding for the cemetery and memorial;

Ever Conscious of the importance of establishing a cemetery and memorial as a means of bringing reconciliation to the peoples of Bosnia and Herzegovina, which reconciliation will in turn promote the return of displaced persons and refugees and permanent peace; peace;

Conscious further that such reconciliation and permanent peace require and compel the making of a Decision on the establishment and registration of a Foundation to initially fund and administer the cemetery and memorial as aforesaid.

Having considered, noted and borne in mind all the matters aforesaid, I hereby issue the following:

DECISION

establishing the Foundation of the Srebrenica-Potocari Memorial and Cemetery and registering the Foundation under the RS Law on Endowments, Foundations and Funds and the Federation Law on Foundations and Endowments

1. The Foundation of the Srebrenica-Potocari Memorial and Cemetery (hereinafter referred to as the “Foundation”) is hereby established, and shall have as its objective the construction and maintenance of the Srebrenica-Potocari Memorial and Cemetery.
2. The Foundation shall be registered under the Law on Foundations and Endowments of the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of Bosnia and Herzegovina, 16/98) and under the Law on Endowments, Foundations and Funds of the Republika Srpska (Official Gazette of the Republika Srpska, 14/94).
3. The Statute of the Foundation is annexed hereto and forms an essential part of this Decision.
4. Each and every applicaand every application as may be required to be made to, or to be lodged

with, the relevant authorities of the Federation and of the Republika Srpska with a view to effecting such registration, is hereby deemed to have been so made and lodged in proper and due form.

5. In addition, each and every legal step required to be made or taken under the applicable laws of the Federation and of the Republika Srpska respectively in order to effect such registration, is hereby deemed to have been made and taken in proper and due form as provided for by such laws, and registration shall be duly implemented and treated as duly implemented accordingly.
6. The Foundation shall be registered in the Federation and in the Republika Srpska until the entry into force of the Law on Associations and Foundations of Bosnia and Herzegovina, at which time it shall be and become immediately and exclusively registered under that Law.
7. Upon registration of the Foundation under the Law on Associations and Foundations of Bosnia and Herzegovina, registration under the separate Entity Laws shall terminate forthwith without the necessity of any further procedural steps being taken.
8. This Decision shall enter into force immediately and shall be published without delay in the Official Gazette of Bosnia and Herzegovina, the Official Gazette of the Republika Srpska and the Official Gazette of the Federation.

STATUTE OF THE FOUNDATION OF SREBRENICA - POTOCARI MEMORIAL AND CEMETERY

Definitions

Board of Sponsors: a body composed from among those who have made significant contributions to the Foundation.

Executive Board: a body composed of no fewer than five and no more than seven individuals who will manage and assume fiduciary responsibility for the Foundation.

Advisory Working Group: a body composed of no fewer than five and no more than seven individuals who will be responsible for providing advice to the Executive Board concerning the work of the Foundation.

Name and Seat

Article 1

1. The name of the Foundation is: "Foundation of Srebrenica-Potocari Memorial and Cemetery" (hereinafter: "Foundation").
2. The Foundation has its seat in Sarajevo, Bosnia and Herzegovina.
3. The Foundation is a legal person.

Article 2

The Foundation has its own stamp and seal.

Article 3

The Foundation may create its own symbols.

Objectives

Article 4

1. The objective of the Foundation is to:
 - receive and disburse funds for the Memorial and Cemetery;
 - construct and maintain the Memorial and Cemetery;
 - construct and maintain the Memorial and Cemetery;
 - conduct other related activities.
2. The Foundation may receive funds from:

- gifts;
 - Last wills and testaments;
 - grants;
 - contracts or donations from civic, professional or governmental organisations;
 - other sources.
3. Funds will be designated for the objectives enumerated in paragraph 1, items 2 and 3 of this Article as specified by the Executive Board.<

Establishment and Assets of the Foundation

Article 5

The Foundation is established by the Board of Sponsors, which is chaired by the High Representative.

Article 6

The Foundation shall commence its work with DM 1000.

Article 7

All funds given to the Foundation shall be used exclusively for the purposes enumerated in Article 4, paragraph 1, items 2 and 3 of this Statute.

Management, Administration and other Governing Organs

Board of Sponsors

Article 8

1. The High Representative shall appoint an initial Board of Sponsors.
2. Once the Board of Sponsors has been constituted, the High Representative may invite the participation of additional individuals on this Board.

Article 9

1. The Board of Sponsors may meet annually to assess the progress of the Founda annually to assess the progress of the Foundation.
2. The Board of Sponsors may, by consensus, make recommendations to the Executive Board concerning the Foundation. In particular, the Board of Sponsors may recommend to the Executive Board a change in the scope of the Foundation's work.

EXECUTIVE BOARD

Article 10

1. The High Representative, on advice from the Board of Sponsors, shall appoint an initial Executive Board, which shall be composed of 5-7 individuals, who shall manage the Foundation on the advice and recommendation of the Advisory Working Group and assume fiduciary responsibility for the Foundation.
2. Members of the Executive Board shall serve for 2 years. The procedure for subsequent renewals and appointments shall be regulated by by-law.
3. The Executive Board may, by majority vote, elect a Chairperson, who will be responsible for representing the Foundation and the Executive Board, as necessary.
4. Members of the Executive Board shall perform their duties in accordance with law, as well as with this Statute, subsequent by-laws and general acts of the Foundation.

Article 11

The High Representative may dismiss members of the Executive Board for good cause, until otherwise stipulated by by-law.

Article 12

The Executive Board shall perform its duties and tal perform its duties and take its decisions according to this Statute, subsequent by-laws, and general acts of the Foundation.

Article 13

1. The Executive Board shall perform its tasks in sessions that are convened as needed, but at least once every three months.
2. A majority of the Executive Board shall constitute a quorum.
3. The Executive Board shall take all decisions by consensus of those present and voting.
4. At the request of the members of the Executive Board, voting shall take place by secret ballot.
5. Meetings of the Executive Board other than those regularly scheduled may be convened at the request of 3 or more members of the Board.
6. Notice of meetings from paragraph 5 of this Article shall be given by written notice sent by mail, fax or E-mail. Such notice shall be accompanied by a provisional Agenda for the meeting.
7. Meetings from paragraph 5 of this Article may be conducted by means of telephone conferences.
8. Decisions may be taken by the Executive Board at such meetings.
9. All Decisions of the Executive Board shall be recorded.

Article 14

The Executive Board is accountable for its work to the Board of Sponsors.

Article 15

1. The Executive Board shall perform the following tasks:
 - act on proposals submitted by
 - act on proposals submitted by the Advisory Working Group concerning measures to ensure the lawful and efficient realization of the Foundation's objectives
 - adopt by-laws for the Foundation, as necessary
 - maintain relations with the Board of Sponsors
 - maintain accountability to the Board of Sponsors for the implementation of the Foundation's work
 - report to the Board of Sponsors at least once a year on the implementation of the Foundation's work
 - propose to the Board of Sponsors changes to or expansion of the scope of activities of the Foundation

ADVISORY WORKING GROUP

Article 16

1. The High Representative, on advice from the Executive Board, shall appoint an initial Advisory Working Group composed of 5-7 members. The procedure for subsequent appointments and renewals shall be detailed in a by-law.
2. The members of the Advisory Working Group shall serve for 2 years.
3. The High Representative may dismiss members of the Advisory Working Group for good cause, until otherwise stipulated by by-law.

Article 17

Members of the Advisory Working Group shall perform their duties in accordance with law, as well as this Statute, subsequent by-laws and general acts of the Foundation.

Article 18

The Advisory Working Group shall perform the following tasks:

- propose to tasks:
 - propose to the Executive Board measures to ensure the lawful and efficient realisation of the Foundation's objectives, including measures involving:
 1. the organization and management of the Foundation
 2. the annual program of activities of the Foundation
 - prepare by-laws for adoption by the Executive Board
 - prepare the annual financial plan and adopt annual financial reports
 - report to the Executive Board on organisational developments, financial matters, as well as on the progress of activities of the Foundation, and to ensure efficient management of the Foundation
 - other matters specified by by-laws, general acts of the Foundation or relevant law

Amendments and Dissolution

Article 19

The Foundation may engage in activities other than those specified in this Statute without amending its registration, provided that these activities are related to, and in support of, activities for which the Foundation has been registered and, in addition, are performed along with the latter activities, are lesser in scope, periodically performed or contribute to a more efficient use of resources available to the registered activities.

Article 20

This Statute may be altered, amended, or modified by an affirmative vote of the majority of the Advisory Working Group, subject to ratification by the ratification by the Executive Board.

Article 21

This Statute enters into force on the day of registration of the Foundation.

Sarajevo, 10 May 2001

Wolfgang Petritsch
High Representative

Office of the High Representative