

Decision on The Special Auditor for 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 the current situation as to the public budget in the Federation of Bosnia and Herzegovina and paying attention to the fact that transparency in governmental spending of public funds is not sufficiently established;

Bearing in mind that the Peace Implementation Council at its meeting in Brussels on 23/24 May 2000 urged measures for improved transparency in public budgets;

Bearing also in mind that the Peace Implementation Council at its meeting in Brussels on 23/24 May 2000 urged the High Representative to use his authority in accordance with his mandate to remove obstacles that stand in the way of economic reform and further stressed the need to create conditions for self-sustaining market-driven economic growth to avoid an economic crisis as Bosnia and Herzegovina makes the transition from a donor dependent economy;

Considering the Decision of the High Representative on the Special Auditor for the Federation of Bosnia and Herzegovina of 02 March 2001 (n. 88/2001) aimed at ensuring the transparency of Federation and Cantonal level budgets;

Noting that the public financial situation demands a safeguard of public funds;

Considering that a harmonization between the work of the Federation Supreme Audit Institution and the said Special Auditor’s office is in the general interest of transparency in the Federation of Bosnia and Herzegovina and in the specific interest of the two aforementioned bodies;

Noting that the results of the audit of public expenditures in the Federation, undertaken in response to the above referenced Decision of the High Representative, demonstrated a serious lack of financial transparency and accountability in the public sector;

Considering the enormous amount of work that needs to be done by the Supreme Audit Institution with limited resources;

Believing that the continued appointment of a Special Auditor will help accelerate the movement toward transparency and accountability in public financing and assist the Supreme Audit Institution in its long-term goal of modernizing the financial and accounting practices in the Federation;

Having taken into account and considered the totality of the matters aforesaid, the High Representative hereby issues the following

Further Decision on The Special Auditor for the Federation of

Bosnia and Herzegovina

Article 1

1. The term of the Special Auditor for the Federation of Bosnia and Herzegovina, Ms. Dale Ellen Ralph, is hereby renewed. Her position as such shall end as hereinafter determined by the High Representative. The work of the Special Auditor shall proceed in accordance with the High Representative's Decision on the Special Auditor for the Federation of Bosnia and Herzegovina of 2 March 2001 and in accordance with the additional clauses hereinafter provided for in this Decision.

Article 2

1. The Auditee shall furnish the Special Auditor with access to all contracts, records, documents and other information requested by the Special Auditor for the purpose of carrying out her duties under this Decision. In addition, the Special Auditor may direct the Auditee to release, and otherwise facilitate access to, all such information held by banks, enterprises or other third parties. The Special Auditor may also herself direct third parties to provide access to information for the purpose of carrying out her duties under this Decision.
2. In the event that the Auditee or a third party does not comply with the obligations listed in paragraph 1 of this Article, the Special Auditor may notify the relevant authorities, who shall pursue the notification and shall take all necessary action in accordance with relevant Law in order to comply with the request of the Special Auditor. In such case, the Special Auditor shall also notify the Office of the High Representative.
3. The Auditee or third party may refuse to provide any information whose disclosure would reasonably be expected to cause substantial harm to current criminal proceedings.
4. Should the Auditee or third party refuse to provide any information in accordance with the third paragraph of this Article, the Auditee or third party, as appropriate, shall inform within three days in writing the Special Auditor or the authorized person of the criminal proceedings. In such case, the Special Auditor or the authorized person shall inform without delay the Office of the High Representative.

Article 3

1. The Supreme Audit Institution of BiH and the Federation Supreme Audit Institution shall provide the Special Auditor with any assistance that she so requests in order to perform her duties, as set forth in this Decision and in the High Representative's Decision of 02 March 2001, including, but not limited to, the provision of access to records, documents, files and other information.

Article 4

1. The Special Auditor and all those persons authorized to work under her pursuant to the Decision of the High Representative of 2 March 2001, shall, notwithstanding the provisions of any local law or laws to the contrary, have full immunity for all time from all proceedings brought before any court whatsoever in respect of actions carried out under and by virtue of her mandate.

Article 5

1. This Decision, which is made pursuant to the international mandate bestowed upon the High Representative and which shall not be justiciable before any Court in Bosnia in Herzegovina, shall come into effect forthwith and shall be published without delay in the Official Gazettes of the Federation of Bosnia and Herzegovina and its Cantons.

Sarajevo, 1 August 2002,

*Paddy Ashdown,
High Representative*