

Decision Enacting The Law On Execution Of The Budget Of The Federation Of Bosnia And Herzegovina For 2003

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 that the Federation House of Representatives adopted on the 10 December 2002 the Law on Execution of the Budget of Federation of Bosnia and Herzegovina for 2003;

Considering further that the Federation House of Peoples required to adopt the aforementioned law has not yet been formed and is unlikely to be formed before the end of December;

Noting that any further delay in the adoption of the Law on Execution of the Budget of Federation of Bosnia and Herzegovina for 2003 will result in serious financial and other repercussions for the Federation of Bosnia and Herzegovina including jeopardizing its ability to (i) provide necessary public services; (ii) continue crucial financial arrangements for the Federation; and (iii) to meet its national and international fiscal obligations as they fall due;

Bearing in mind that the International Monetary Fund Stand By arrangement will be disrupted if the Budget of the Federation of Bosnia and Herzegovina is not adopted by December 16, 2002.

Bearing in mind further the serious consequences associated with the failure to adopt the Law on Execution of the Budget of Federation of Bosnia and Herzegovina for 2003 in a timely manner;

Having considered the totality of the matters aforesaid, the High Representative hereby issues the following

DECISION

ENACTING THE LAW ON EXECUTION OF THE BUDGET OF THE FEDERATION OF BOSNIA AND HERZEGOVINA FOR 2003

The Law which follows, and which forms an integral part of this Decision, shall come into effect pursuant to article 39 thereof but on an interim basis until such time as the Parliament of the Federation of Bosnia and Herzegovina adopts the same in due form, without amendment and with no conditions attached. This Decision shall come into effect forthwith and shall be published without delay in the Official Gazette of the Federation of Bosnia and Herzegovina.

Sarajevo, 16 December 2002

*Paddy Ashdown
High Representative*

Law on Execution of the FBiH 2003 Budget

I - General Provisions

Article 1

This Law shall regulate the manner of the 2003 Federation of Bosnia and Herzegovina Budget execution (hereinafter: the Budget), management of the Budget revenues and expenditures as well as the rights and obligations of the Beneficiaries of budgetary funds.

Article 2

The general part of the Budget shall consist of the balance of revenues and expenditures and the financing accounts, whereas the special part contains a detailed table of expenditures sorted by both Budget Beneficiaries (hereinafter: the Beneficiaries) and expenditure types.

Under the balance of revenues and expenditures, tax, non-tax, and other revenues and receipts and funds for public expenditure financing at the level of the Federation of Bosnia and Herzegovina pursuant to the relevant legislation are quoted.

Under the financing account, debts and repayments of debts are quoted, which were arranged for the financing of revenue and expenditure balance of the Budget.

II - Transparency and Publicity of the Budget

Article 3

In order to secure transparency, the Federation of Bosnia and Herzegovina Budget shows the total (including the Budget Beneficiaries), of all the public expenditures and public revenues by accounts in the Account plan.

With a view to publicity of public funds management, the Federation of Bosnia and Herzegovina Budget shall be published both by reference to totals and by reference to the budget Beneficiaries.

III- The Budget Audit and Control

Article 4

The Supreme Audit Office shall conduct the annual audit of the Federation of Bosnia and Herzegovina 2003 Budget in accordance with the Law.

Control over the use of the Budget funds by the Beneficiaries shall be exercised by the Federation Ministry of Finance (hereinafter: the Ministry of Finance) in a manner stipulated by the Ministry of Finance.

The Ministry of Finance shall submit reports on the execution of the Budget to the Federation of Bosnia and Herzegovina Government (hereinafter: the Government) and the Parliament on a quarterly basis.

IV- The Budget Execution

Article 5

The Budget funds shall be secured for Beneficiaries earmarked as the individual item fund holders specified under the Special Budget segment.

The Beneficiaries shall use the budgetary funds only for the purposes earmarked under the Budget, up to the amounts established under its Special segment.

Article 6

The Beneficiaries shall use the budgetary funds in accordance with their annual financial plans and the schedule established under monthly and quarterly plans.

Article 7

While negotiating conditions concerning fulfillment of commitments covered under the budgetary funds the Beneficiaries shall take into account the schedule of the fund inflow/disbursement.

Article 8

The procedure concerning the procurement of investments and services shall be in accordance with the Decree on Supplies of Commodities, Services and Outsourcing (Federation of Bosnia and Herzegovina Official Gazette 31/98).

Article 9

The Budget shall be executed according to monthly and quarterly Budget execution plans, in accordance with the funds available.

Article 10

The Beneficiaries undertake obligations for the funds earmarked in the Special Segment of the Budget in the event that their payment is in line with the quarterly and monthly Budget execution plans.

As an exception, due to non-harmonized inflow of funds into the Budget Ministry of Finance may change the schedule of fund remittance to individual Beneficiaries, upon the approval of the Government.

Article 11

The Ministry of Finance shall execute monthly and quarterly financial plans by Beneficiaries and expenditures, in accordance with available funds.

The Ministries containing budgetary sub-units shall be in charge of such sub- units and establish their monthly and quarterly expenditure execution plans within the limits of the approved funds under paragraph 1 of this Article.

Article 12

The Beneficiaries shall be under the obligation to submit their quarterly Budget execution plans to the Ministry of Finance 15 days prior to the commencement of the quarter.

The Beneficiaries shall be liable to submit their proposals for their account plan for the following month to the Ministry of Finance before the 25th of the current month according to the items established under the quarterly financial plan.

In the event of non-submission of the monthly financial plan within the deadline set under paragraph 2 of this Article by the Beneficiary to the Ministry of Finance, it is then the Ministry of Finance that shall be responsible for establishing the monthly plan for the Beneficiary.

Article 13

The Ministry shall carry over the non-disbursed funds according to the monthly Budget execution plan for individual expenditure items to the same items of the following monthly Budget execution plan in the same budget year.

Article 14

As an exception, expenditures of the Beneficiaries not foreseen under the monthly Budget execution plan, or the expenditures exceeding individual items in the monthly Budget execution plan (hereinafter: unforecasted expenditures) may be covered with the approval of the Ministry of Finance.

The Ministry of Finance will approve the expenditures under paragraph 1 of this Article, in the event that the payments are related to the Federation debt under the Law on the Federation of Bosnia and Herzegovina External Debt (Federation of Bosnia and Herzegovina Official Gazette 41/98).

Article 15

Funds allocated by the Budget may not be reallocated between the Ministries or other bodies of the Federation administration.

As an exception, the Government may decide, upon the proposal of the Ministry of Finance, that insufficiently forecasted expenditures of a Beneficiary be covered from its own or other Beneficiaries' reserves by reducing funds under their items.

Article 16

The Federation of Bosnia and Herzegovina Budget shall be executed according to the following priorities:

1. foreign debt and interest
2. transfer for disability benefits
3. transfer for refugees
4. transfer for financing the State of BiH
5. transfer for financing the Army
6. salaries of employees and Parliament Members
7. other.

Article 17

The Government shall decide on the use of the Budget current reserve.

The Prime Minister may utilize Budget Current Reserve funds amounting to KM 100,000 quarterly.

The Federal Minister of Finance (hereinafter: the Minister of Finance) may utilize Budget Current Reserve funds amounting to KM 50,000 quarterly.

The Prime Minister and the Minister of Finance must quarterly report to the Government on the utilization of funds referred to in Paragraphs 1 and 2 of this Article and the Government shall report to the Parliament once a year.

Article 18

If, during the year, pursuant to a law or another regulation, the scope of activities or the competence of a Beneficiary increases requiring an increase in funds or the establishment of a new Beneficiary, funds for its expenditures shall be secured from the Budget Current Reserve and approved by the Government.

If, during a year, pursuant to a law or another regulation, the scope of activities or the competence of a Beneficiary has decreased requiring a decrease of funds or closing down or abolition of the Beneficiary, funds not spent for its expenditures shall be transferred to the Budget Current Reserve or to the Beneficiary that shall take over its responsibilities upon the approval of the Government.

Article 19

The public revenues collected, which belong to the Budget, must be paid in the depository accounts of the public revenues of the Federation Budget

Article 20

Erroneously paid or overpaid revenue to the Budget shall be returned to the payers at the expense of such revenue.

The Ministry of Finance shall take a decision to that end.

Article 21

The Budget Beneficiaries shall be provided with funds for mandatory insurance in accordance with a separate regulation.

Funds for reimbursement for damage to property not insured in accordance with Paragraph 1 of this Article shall be secured in the Budget and shall be remitted to the Budget Beneficiaries at their request.

Article 22

Amounts of per diems, reimbursement for travel and other expenses incurred related to business trips for all Beneficiaries funded from the Budget shall be determined in accordance with the Decree on Travel Allowances (Federation of Bosnia and Herzegovina Official Gazette, 18/96).

Article 23

Funds defined in chapter 10 of the Budget, under the heading: "Allowances for the Members of the Parliament of the Federation (the MPs' appanage)" shall be remitted to the Federation Parliament pursuant to the Law on Reimbursement of Members of the Parliament of the Federation of Bosnia and Herzegovina (Federation of Bosnia and Herzegovina Official Gazette, 27/98).

Article 24

Funds defined in chapter 12 of the Budget, under the heading: "Transfer for the Parliamentary Political Parties" shall be distributed to Beneficiaries by the Government.

Funds earmarked for financing of political parties shall be distributed by the Government in such a manner as to distribute 40% of the foreseen total among the political parties in equal amounts, and the remaining 60% according to the criterion of the number of delegates participating in the Houses of the Federation Parliament.

Funds defined in chapter 12 of the Budget, under the heading: "Transfers to Civic Associations and Other Organizations" shall be distributed per Beneficiaries by the Government.

Funds defined in chapter 12 of the Budget, the Joint Services of the Government, under the heading: "Acquisition of Equipment for Budget Beneficiaries", the Service shall carry out a public procurement procedure in co-operation with the Beneficiaries.

Article 25

Funds defined in chapter 15 of the Budget, under the heading: "Transfer for exhumations" and "Transfer for Burial of the Exhumed" shall be used according to programs adopted by the Government.

Article 26

"Transfer for financing of BiH" as defined in chapter 16 of the Budget shall be paid in on a monthly basis in the amount of one-twelfth of the annual amount, or pursuant to the Law on the Execution of the 2003 Budget of Bosnia and Herzegovina.

Funds defined in chapter 16 of the Budget, under the heading: "Foreign Interest Rate Expenditure" and "Debt Repayment" shall be channeled in accordance with the funds inflow in the Federation Budget based on the international transfer for foreign debt financing and they shall have a priority.

Article 27

Funds defined in chapter 17 of the Budget, under the heading: "Incentives for Industrial Production" shall be used according to programs adopted by the Government.

Article 28

Funds defined in chapter 19 of the Budget, under the heading: "Transfer for Displaced Persons and Refugees" shall be used according to programs adopted by the Government.

Article 29

Funds defined in chapter 20 of the Budget, under the heading: "Transfer for health institutions of importance for the Federation" shall be used according to programs adopted by the Government.

Article 30

Funds defined in chapter 21 of the Budget, under the heading: "Transfer for culture of importance for the Federation", "Transfer for sports of importance for the Federation", "Transfer for science of importance for the Federation", "Transfer for the Publishing Fund", "Transfer for Cinematography", "Transfer for Reconstruction of Cultural and Architectural Heritage" and "Transfer for cultural institutions of importance for BiH" shall be used according to programs adopted by the Government.

Article 31

Funds defined in chapter 24 of the Budget, under the heading: "Transfer for Agriculture" shall be used according to programs adopted by the Government.

Article 32

Relevant Beneficiaries of the Budget funds must propose to the Government programs on the use of the funds referred to in Arts. 24, 26, 27, 28, 29 and 30.

The essential elements of the program shall be: the name of the program, the purpose of the program, the amount of the funds, the funds sources and the name of the organization receiving the transfer.

Funds may not be used before the Government approves so by its decision.

The Beneficiaries of the Budget shall report on the expended funds referred to in Paragraph 1 of this Article to the Ministry of Finance. The Ministry of Finance shall further report to the Government and the Government to the Federation Parliament, on a quarterly basis.

Article 33

Funds referred to under the heading: "Compensation of Expenses of Employees" shall be remitted to the Budget Beneficiaries pursuant to the Decree on Compensations and Other Material Rights of Managers of Executive Authorities of the Federation of Bosnia and Herzegovina and Employees of the Federation Ministries and Other Bodies of Federation Administration (Federation of Bosnia and Herzegovina Official Gazette, 44/98 and 49/00), the Law on Labor Relations and Salaries of Employees of the Bodies of Administration in the Federation of Bosnia and Herzegovina (Federation of Bosnia and Herzegovina Official Gazette, 13/98) and the Collective Agreement for Employees of Bodies of Administration and Judicial Bodies in the Federation of Bosnia and Herzegovina (Federation of Bosnia and Herzegovina Official Gazette, 23/00).

Article 34

Collection of the Federation of Bosnia and Herzegovina Budget public revenues shall be carried out through the public revenues account (the depositary account).

Performance of payment operations shall be carried out through the transaction account that is an integral part of the Treasury Single Account opened by the Federation Ministry of Finance.

Signatories of orders for payment transactions performed through the accounts referred to in Paragraphs 1 and 2 of this Article shall be persons designated by the Government.

Article 35

Relevant Beneficiaries of the Budget funds may use the funds foreseen only for purchase of domestic goods and services and for payment of the works carried out in the territory of the Federation to domestic contractors.

The Federation Government shall issue a special decree identifying in greater detail the categories of "domestic goods", "a domestic service" as well as the procedure of outsourcing on the territory of the Federation.

Article 36

Revenues that the Budget Beneficiaries generate by their own activity must be paid in the public revenue depositary accounts of the Federation Budget.

Payments of income generated by the Budget Beneficiaries shall be recorded in the Treasury General Ledger as each Budget Beneficiary's own income.

Funds paid on such basis shall remain in the Single Account and shall become public revenues, i.e. they shall not be returned to the Beneficiaries that have generated them.

Accordingly, in preparing their part of the Budget, the Beneficiaries shall plan expenditures that shall be covered from their own income.

Article 37

Cantons, cities and municipalities cannot incur commercial debts in the country and abroad in order to finance current and capital investment expenses.

V - PENAL PROVISIONS

Article 38

A fine of KM 500 - 5,000 shall be imposed on the responsible person of the Budget Beneficiary for a violation, as follows:

1. if the Budget funds are not used as earmarked and if an obligation has been assumed exceeding the one foreseen in the Budget (Art. 5);
2. if the Budget funds are not used in accordance with its own plans (Art. 6);
3. if the Beneficiary fails to submit to the Ministry of Finance a quarterly plan within the legal deadline (Art. 12);
4. if the Beneficiary acts contrary to Article 32 of this Law;
5. if the funds are paid out contrary to Article 33 of this Law;
6. if the Beneficiary acts contrary to Article 36 of this Law;
7. if the Beneficiary acts contrary to Article 37 of this Law.

Article 39

This Law shall apply to the fiscal year 2003 and shall enter into force on the 16 December 2002 and shall be published without delay in the "Official Gazette of the Federation of Bosnia and Herzegovina"