

Decision appointing a Provisional Administrator for the “Privredna Banka a.d. Srpsko Sarajevo”

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 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”;

Observing the importance which the international community attaches to the proper administration of the banking system of Bosnia and Herzegovina as an integral part of the peace implementation process;

Noting by way of example of the said attachment, the welcome given by the Peace Implementation Council at the Conference held at London on 4-5 December 1996 to the commitment of the authorities in Bosnia and Herzegovina to pass laws on fields including banking; further noting paragraph 44 a) of the Declaration of the Ministerial Meeting of the Steering Board of the said Council held at Luxembourg on 9 June 1998 in which the Board observed that new banking legislation should be adopted in both Entities; still further noting the call to the authorities in Bosnia and Herzegovina made by the said Council, at its meeting in Brussels on 23-24 May 2000, for the said authorities to harmonize country-wide their approach in a number of areas including banking;

Considering the grave concern repeatedly expressed by the international community, *inter alia*, through the Declaration of the said Council at its said meeting in Brussels on 23-24 May 2000, over ingrained corruption in Bosnia and Herzegovina which apart from hindering the development of the market economy undermines democratic governance and wastes public resources;

Noting that the “Privredna Banka a.d Srpsko Sarajevo” was placed under provisional administration by decision of the Banking Agency of Republika Srpska dated 20 June 2003;

Further noting that the Provisional Administrator appointed by the Banking Agency of Republika Srpska announced, by letter dated 30 April 2004, his decision to resign from his position and that such decision followed the assault and battery perpetrated against his person;

Mindful that the unsuccessful efforts of the Banking Agency of Republika Srpska to appoint a replacement which culminated in the Decision of the Management Board of the said Agency to solicit the direct involvement of an OHR representative;

Ever conscious that the principle of the rule of law in Bosnia and Herzegovina mandates that insolvent banks be processed through efficient administration free from illegitimate outside interference;

Having taken into account and considered the totality of the matters aforesaid I hereby make and require to have issued the following:

DECISION

To appoint a Provisional Administrator for the “Privredna Banka a.d. Srpsko Sarajevo” (hereinafter: “the Bank”)

1. As from 9 June 2004, Ms Toby Robinson is appointed Provisional Administrator of the said Bank.
2. The mandate of the Provisional Administrator shall be regulated by law, unless otherwise stipulated in this Decision.
3. The Provisional Administrator shall be assisted by specialist teams authorized by the Provisional Administrator to work under her orders, and each member of such team shall be provided with a letter certifying such authorization and of the identity of the bearer thereof.
4. The Provisional Administrator and all those authorized to work under her shall have unrestricted access to the premises of the said Bank and each and every one of its branches and subsidiaries, and shall have control over all the financial assets, offices, books of account and other records and documents, electronic equipment, electronic and hardcopy files and all other assets of the bank, including its branches and subsidiaries. Such control shall include control over the reserve held on behalf of the said Bank in the Central Bank of Bosnia and Herzegovina.
5. The Provisional Administrator, assisted by all those authorised to work under her, is hereby authorised, required and empowered to take protective measures in order to secure the assets and records of the Bank, its branches, subsidiaries and all of the Bank's participation interests so as to prevent their dissipation by theft or other improper action.
6. Should the Provisional Administrator and/or any of those appointed and authorized as above to assist her be physically obstructed in carrying out any of the measures required to implement this Decision, the Provisional Administrator is empowered, should she deem it necessary, to request the assistance of the Peace Stabilization Force in addition to government bodies and officials.
7. The Provisional Administrator shall be empowered, as if appointed Provisional Administrator by the Banking Agency of Republika Srpska, to take all actions provided for under the Law.
8. The Provisional Administrator shall be empowered at any time to declare all or part of the deposits and investments by the public in the said Bank totally or partially blocked for a maximum period of one year. Should a blocking order be so declared, the Provisional Administrator shall take all such measures as she may deem to be appropriate with the object of preserving in the interim the approximate value of such deposits and investments in the said Bank.
9. The Provisional Administrator shall report to the High Representative and the Banking Agency of Republika Srpska upon the said administration.
10. The mandate of the Provisional Administrator shall end as determined by the High Representative at later juncture.
11. The cost of the Provisional Administrator will be borne by the Bank.
12. The Provisional Administrator and all those persons who are authorized to work under her pursuant to the Decision of the High Representative herein, 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 in respect of actions carried out by her or them under or by virtue of the mandate bestowed by the said Decision and in the course of duties carried out thereunder before any court whatsoever.
13. For the avoidance of any doubt or ambiguity it is hereby specifically declared and provided that the provisions of the Decision herein are, as to each and every one of them, laid down by the High Representative pursuant to his international mandate and are not therefore justiciable by the Courts of Bosnia and Herzegovina.

This decision, which has immediate effect, shall be published without delay in the Official Gazette of Republika Srpska.

Sarajevo, 8 June 2004

*Paddy Ashdown
High Representative*