

Decision REVIEWING THE ORDERS BLOCKING ALL BANK ACCOUNTS OF, HELD BY, AND/OR IN THE NAME OF CERTAIN INDIVIDUALS

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 ("GFAP"), 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 "[f]acilitate, 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 as well as the smooth running of the common institutions;"

Recalling that the Security Council of the United Nations has repeatedly affirmed, through its resolutions adopted pursuant to Chapter VII of the Charter of the United Nations, that the role of High Representative as final authority in theater regarding the implementation of Annex 10 to the GFAP includes the "authority to make binding decisions as he judges necessary on issues as elaborated by the Peace Implementation Council in Bonn on 9 and 10 December 1997;"

Convinced that the exercise of such power has proved essential in preventing obstruction of the implementation of the GFAP;

Recalling further all relevant resolutions of the Security Council of the United Nations and in particular Resolution 1503 of 28 August 2003 and Resolution 1534 of 26 March 2004 by which the Security Council called upon all States to intensify cooperation with and render all necessary assistance to the International Criminal Tribunal for the former Yugoslavia (ICTY), particularly to bring Radovan Karadžić and Ratko Mladić, [...] and all other indictees to the ICTY;

Noting that Bosnia and Herzegovina continues to have international and domestic obligations towards the ICTY that remain unfulfilled in their entirety;

Recalling that the Steering Board of the Peace Implementation Council, at its meeting held in Sarajevo on 25 June 2008, called upon the competent authorities inside and outside Bosnia and Herzegovina to abide by their Dayton and wider obligations under international law by cooperating fully with the ICTY, playing a proactive role in apprehending all remaining indictees – including Radovan Karadzic and Ratko Mladic – without further delay, dismantling their support networks and ensuring indictees are transferred to the ICTY;

Regretting that a number of persons indicted under Article 19 of the Statute of the ICTY have been able, at least prior to the date hereof, to elude just prosecution, and that such elusion of just prosecution cannot have occurred without the assistance of other individuals;

Mindful that the implementation of the General Framework Agreement for Peace in Bosnia and Herzegovina has been obstructed as a result of such assistance;

Recalling the Orders of the High Representative, issued in 2003 and 2004, which blocked the bank accounts (Blocking Orders) of individuals suspected of contributing to the support networks that have allowed indicted war criminals to evade arrest;

Profoundly convinced that previous Blocking Orders of the High Representative were necessary and useful in helping to weaken the financial networks that support indicted war criminals;

Mindful, of the statement of the Steering Board of the Peace Implementation Council issued in June 2005 in which it expressed its "intention to continue the process of transferring responsibilities to the BiH authorities [...]. The end point of this process will be an important milestone in Bosnia and Herzegovina's development - the point at which BiH takes its destiny into its own hands, and moves forward towards integration with the EU;"

Recognizing the progress made by authorities in Bosnia and Herzegovina to establish a legislative framework and domestic institutions for monitoring and enforcing financial sanctions imposed on individuals suspected of providing financial support to individuals indicted for war crimes;

Further recognizing the need to periodically review previous Decisions of the High Representative in order to ensure that the terms of those Decisions continue to be relevant and effective;

Having carried out such a review and assessment and concluded that, subject to certain revisions, the previous Blocking Orders continue to be relevant and necessary for implementation of the General Framework Agreement for Peace and for Bosnia and Herzegovina's full Euro-Atlantic integration;

Convinced however that a revision of the Blocking Orders can effectively transfer some responsibility for monitoring and enforcing sanctions against suspected members the war criminal support networks to domestic institutions;

Ever conscious of the need to balance in due proportion the public good with the rights of individuals and of the need for policy to keep pace with changes in political circumstances;

For the reasons hereinabove set out the High Representative hereby issues the following:

DECISION

REVIEWING THE ORDERS BLOCKING ALL BANK ACCOUNTS OF, HELD BY, AND/OR IN THE NAME OF CERTAIN INDIVIDUALS

[Orders 01/03 and 02/03 of 7 March 2003, 05/03 through 18/03 of 7 July 2003, 19/03 through 28/03 of 9 February 2004, 29/04 and 30/04 of 30 June 2004, 31/04 of 2 July 2004 and 32/04 through 37/04 of 16 December 2004]

Article 1

(Continuation of Existing Blocking Orders)

All bank accounts blocked by previous orders of the High Representative shall remain blocked and no transactions, either deposits or withdrawals, shall be allowed through those blocked accounts until one of the conditions provided for in Article 7 of this Decision is met or until otherwise decided by the High Representative. A list of individuals whose bank accounts have been blocked by Decision of the High Representative is attached to this Decision as Annex A.

Article 2

(Single New Account)

- (1) The Banking Agency of the Republika Srpska and the Banking Agency of the Federation of Bosnia and Herzegovina shall notify licensed banks under their respective jurisdictions that the individuals listed in Annex A are permitted to open one new bank account in the territory of BiH (single-account rule). Each Entity banking agency shall enforce the single account rule within its territorial jurisdiction.
- (2) A bank account opened under the authority of this Decision may receive electronic deposits of salary payments from an employer of the account holder. No deposits from sources other than salary may be deposited in the new account and no cash may be deposited.
- (3) The imposition of the single-account rule, as prescribed in paragraph 1 and 2 of this article, is explicitly declared to be necessary in order to prevent the funding of activities, which are, or threaten to be, obstructive of the General Framework Agreement for Peace.
- (4) Violations of the single-account rule shall be sanctioned pursuant to the provisions of article 4 of the applicable Law on Banking Agency, which allows actions to be taken against banks or individual account-holders in order to prevent the funding of activities, which are, or threaten to be, obstructive of the General Framework Agreement for Peace.

Article 3

(Withdrawals from the Single Account)

- (1) An individual listed in Annex A who opens an account pursuant to this decision (account-holder) shall report to the Financial Intelligence Department (FID) of the State Investigation and Protection Agency (SIPA) any withdrawal from the single account for payment of expenses other than basic life expenses, if such withdrawal exceeds one hundred (100) Convertible Marks.
- (2) Basic life expenses include payments for foodstuffs, rent or lease or mortgage for the living place, medicines and medical treatment, taxes, insurance premiums, and public utility charges.

(3) Failure to report an expense pursuant to paragraph (1) of this article shall create a presumption that the account holder is attempting to evade the terms of a blocking order. FID shall notify the relevant Entity banking agency of any such attempt to evade the terms of a blocking order, which may be sanctioned pursuant to the relevant Entity Law on Banking Agencies.

Article 4

(Request for Information Under the Entity Laws on Banking Agencies)

(1) The relevant Entity banking agency may request information from an account holder regarding deposits and withdrawals if the banking agency believes that the account-holder has acted deliberately or negligently in such a manner as to lead to the evasion or attempted evasion of this Decision.

(2) Failure of an account holder to comply with a request for information made pursuant to this article shall create a presumption that the account holder is attempting to evade the terms of a blocking order and thereby subject the account holder to sanctions under Article 4 of the applicable Entity Law on Banking Agency.

Article 5

(Application of Provisions of the Law on Prevention of Money Laundering)

(1) Individuals listed on Annex A shall be considered "suspicious clients or persons" under the provision of Article 7, paragraph (1) of the Law on Prevention of Money Laundering as if they had been confirmed as such in guidelines issued by the minister of security under Article 7, paragraph (1) of that law.

(2) All "persons under obligation" as defined in the Law on Prevention of Money Laundering shall have a duty to identify and report financial transactions entered into with individuals listed in Annex A.

(3) Details of all financial transactions entered into with an individual listed in Annex A shall be recorded pursuant to Article 8 and reported to the FID under article 13, paragraph 1, item 1 of the Law on Prevention of Money Laundering. FID may request additional information from a person under obligation pursuant to Article 17 of the Law on Prevention of Money Laundering.

(4) All provisions of the Law on Prevention of Money Laundering shall apply to the financial transactions of the individuals listed on Annex A and to the "persons under obligation," as defined in that law, with which they enter into such transactions.

Article 6

(Obligation to Provide Information to FID)

FID may demand information, data and documentation from Entity banking agencies and other authorities in Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, the Republika Srpska, and the Brcko District pursuant to Article 20 of the Law on Prevention of Money Laundering.

Article 7

(Automatic Termination)

(1) This Decision along with the previous Orders blocking all bank accounts of, held by, and/or in the name of certain individuals shall cease to apply ten (10) days following:

a) The arrival of Ratko Mladic in the The Hague/ICTY following his arrest or surrender to authorities;

- b) The death of Ratko Mladic as certified by the ICTY; or
- c) The withdrawal by the Office of the Prosecutor/ICTY of the indictment against Ratko Mladic.

Article 8

(Legal Effect)

(1) This Decision does not call into question the validity of the Orders blocking all bank accounts of, held by, and/or in the name of certain individuals. It does not entitle individuals whose bank accounts have been blocked by Decision of the High Representative to compensation for any remuneration, other forms of unvested monetary benefits or privileges or status forfeited as a result of said orders.

(2) Nothing in this article shall be interpreted to prejudice or otherwise affect the application of the Law on Application of Certain Temporary Measures in Support of Effective Implementation of the Mandate of the International Criminal Tribunal for the Former Yugoslavia, and Other International Restrictive Measures or other legislation applicable in Bosnia and Herzegovina.

Article 9

(Legal Authority)

(1) This Decision is issued pursuant to the authority granted to the High Representative in Annex 10 of the General Framework Agreement for Peace and is not issued by way of substitution for any domestic authority. This Decision shall be self-executing. Each and every step needed to implement the Decision herein shall be deemed to have been duly and properly taken as aforesaid.

(2) For the avoidance of doubt, it is hereby specifically declared and provided that the provisions of the Decision contained 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 or its Entities or elsewhere.

Article 10

(Publication and Entry into Force)

This decision shall be published in the Official Gazettes of Bosnia and Herzegovina, the Republika Srpska, the Federation of Bosnia and Herzegovina and the Brcko District. It shall enter into force eight days after publication in the Official Gazette of Bosnia and Herzegovina.

Sarajevo, 5 September 2008
Lajčák

Miroslav

High Representative

ANNEX

TO THE DECISION OF THE HIGH REPRESENTATIVE N. 23/08

Orders of the High Representative Blocking Individual Bank Accounts

07.03. 2003.

01/03 Momčilo Mandić

02/03 Milovan Bjelica

07.07.2003

05/03 Slavko Roguljić

06/03 Dragan Lalović

07/03 Dragan Spasojević

08/03 Milenko Vračar

09/03 Dragomir Vasić

10/03 Aleksandar Saša Karadžić

11/03 Luka Karadžić

12/03 Sonja Karadžić

13/03 Ljiljana Zelen Karadžić

14/03 Đojo Arsenović

15/03 Zvonko Bajagic

16/03 Bogdan Subotić

17/03 Žarko Nikolić

18/03 Jovan Đogo

09. 02. 2004.

19/03 Dragan Bašević

20/03 Veljko Borovčanin

21/03 Samojko Đorda

22/03 Ljuban Ećim

23/03 Radomir Kojić

24/03 Tomislav Kovač

25/03 Predrag Kujundžić

26/03 Milovan Marijanović

27/03 Ivan Šarac

28/03 Mirko Šarović

30. 06. 2004.

29/04 Zoran Petrić

30/04 Mile Pejčić

02. 07. 2004.

31/04 Savo Krunić

16. 12. 2004.

32/04 Ljubiša Beara

33/04 Miroslav Bralo

34/04 Vlastimir Đorđević

35/04 Goran Hadžić

36/04 Vladimir Lazarević

37/04 Sreten Lukić