

Decision Repealing the Conclusion of the City Council of the City of Mostar No. 01-02-10/09 of 29 January 2009 and Ordering Election of the City Mayor of the City of Mostar to be Held

In the exercise of the powers vested in the High Representative by Article V of Annex 10 (Agreement on Civilian Implementation on 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 the Peace Agreement throughout Bosnia and Herzegovina and its Entities which "may include actions against persons holding public office or officials ... who are found by the High Representative to be in violation of legal commitments made under the Peace Agreement or the terms for its implementation";

Noting that Article I.2 of the Constitution of Bosnia and Herzegovina provides that "Bosnia and Herzegovina shall be a democratic state, which shall operate under the rule of law and with free and democratic elections";

Deploring that more than one year has passed since the Local Elections were held and the Mostar City Council constituted and that the City Mayor of the City of Mostar has yet to be elected;

Noting that certain political stakeholders in the Mostar City Council, by their conduct, placed individual and party interests above the interests of citizens and therefore abused the trust of their voters and citizens in general;

Recalling that, at its meeting held in Sarajevo on 26 March, the Steering Board of the Peace Implementation Council, after reviewing the situation in Mostar, concluded that it is unacceptable that the Mostar City Council has failed to appoint a new Mayor almost six months after the elections and urged the parties elected to the City Council to meet this basic obligation to the citizens of Mostar without any further delay;

Bearing in mind the letter of the Acting High Representative of 11 March 2009, by which he addressed to the representatives of the respective political parties to draw their attention to the fact that the situation in the City of Mostar was untenable and warned that the High Representative could have to take certain measures to remedy such situation;

Recalling that the Acting High Representative, in the same letter, "...strongly recommended that the forthcoming procedure be conducted by secret ballot, in accordance with Article 36 of the Statute;"

Recalling further that, at its meeting held in Sarajevo on 30 June 2009, the Steering Board of the Peace Implementation Council called on the High Representative to take further steps to facilitate the election of a new Mayor;

Mindful that the City of Mostar has yet to adopt a budget for 2009 and that the failure of the City Council of the City of Mostar to elect a Mayor has prevented such adoption, thus undermining the functionality of the City institutions;

Having in mind that none of the sixteen attempts to elect the City Mayor of Mostar through the application of an open ballot in last year has been successful;

Convinced that voting by secret ballot in no way calls into question the democratic nature and legitimacy of the

election of the City Mayor of Mostar;

Recalling that Article 36, paragraph 1 of the Statute of the City of Mostar provides that the Elections in the City Council are conducted by secret ballot unless provided otherwise in this Statute;

Recalling further that, in spite of this clear statutory provision, the City Council adopted, on 29 January 2009, conclusions providing for the need to elect the City Mayor by public ballot;

Concerned above all about the conformity of said conclusions with the Statute of the City of Mostar;

Convinced that this decision does not release the elected councilors from their obligations to elect a Mayor and subsequently adopt the City budget and that the political stakeholders in the Mostar City Council must finally act in accordance with their responsibilities towards the citizens;

Having considered, borne in mind and noted all the matters aforesaid, the High Representative hereby issues the following:

DECISION

Repealing the Conclusion of the City Council of the City of Mostar No. 01-02-10/09 of 29 January 2009 and Ordering Election of the City Mayor of the City of Mostar to be Held

Article 1

The Conclusion Number 01-02-10/09 of 29 January 2009 adopted by the City Council of the City of Mostar on the election of the City Mayor of the City of Mostar by public ballot shall be repealed on the day of entry into force of this Decision.

Article 2

For the avoidance of doubt, the elections of the Mayor of the City of Mostar shall be conducted in accordance with the Statute of the City of Mostar, and in particular with Article 36, paragraph 1 thereof.

Article 3

The Speaker of the City Council is hereby directed to convene a session within thirty (30) days from the entry into force of this Decision and to ensure that election of the Mayor of the City of Mostar is conducted at that session.

The Speaker of the City Council shall inform the High Representative on all steps taken to implement this Decision immediately after the holding of the session provided for in paragraph 1 of this Article.

Article 4

This Decision shall enter into force forthwith and shall be published immediately on the Official website of the Office of the High Representative. It shall be published in the Official Gazette of the City of Mostar without delay.

Sarajevo, 30 October 2009

Dr. Valentin Inzko

High Representative

