

Decision Amending the Law on the Temporary Prohibition of Disposal of State Property of BiH

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 “(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”;

Recalling further that the Declaration of the Peace Implementation Council Steering Board adopted at the level of Political Directors in Sarajevo on 24 September 2004 called for a “lasting solution” to “the issue of State Property”;

Noting that pursuant to the aforesaid, a Commission for State Property, for the Identification and Distribution of State Property, the Specification of Rights and Obligations of Bosnia and Herzegovina, the Entities and the Brcko District of Bosnia and Herzegovina in the Management of State Property (hereinafter: Commission), comprised of expert representatives from both Entities of Bosnia and Herzegovina, the Brcko District of Bosnia and Herzegovina and institutions of Bosnia and Herzegovina, was formed in December 2004 by a Decision of the Council of Ministers of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina no. 10/05, 18/05, 69/05, 70/05, hereinafter: “Decision”);

Bearing in mind that pursuant to Article 1 of the aforesaid Decision, the Commission is tasked with proposing draft laws on ownership rights and management of State Property;

Considering that the Commission, pursuant Article 3 of the Decision, is specifically tasked, among other things, with preparation of “criteria to be used in order to identify which property is owned by Bosnia and Herzegovina, the Entities and Brcko District” and “draft legislation to be adopted, which ensures implementation of identified criteria”;

Considering Further that the deadline for the preparation of a final report for the Chairman of the Council of Ministers of Bosnia and Herzegovina, and/or the submission of relevant draft legislation, expired in accordance with Article 10 of the aforementioned Decision on 30 November 2005, prior to the completion of the Commission’s work;

Bearing in mind that the Law on Temporary Prohibition of Disposal of State Property of Bosnia and Herzegovina, Official Gazette of Bosnia and Herzegovina 18/05, which temporarily prohibits disposals of a State Property until the earlier of either the entry into force of the above-mentioned legislation regulating ownership rights and management of State Property or one year from the day of the entry into force of the said prohibition, will expire on 18 March 2006.

Recognizing that effective measures to protect to the interests of Bosnia and Herzegovina, and its sub-divisions, from the potential prejudice posed by further disposal of State Property prior to the enactment of appropriate legislation, based on the aforementioned Commission’s recommendation, which, on the basis of Constitutional competences, will enable the authorities to dispose of or otherwise allocate State Property in a manner that is non-discriminatory and in the best interests of the citizens, still do not now exist throughout Bosnia and Herzegovina;

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

following:

DECISION

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which is hereby attached as an integral part of this Decision.

The said Law shall enter into force as a law of Bosnia and Herzegovina, with immediate effect, on an interim basis, until such time as the Parliamentary Assembly of Bosnia and Herzegovina adopts this Law in due form, without amendment and with no conditions attached.

The Decision of Council of Ministers of Bosnia and Herzegovina on Establishing the Commission for State Property, for the Identification and Distribution of State Property, the Specification of Rights and Obligations of Bosnia and Herzegovina, the Entities and the Brcko District of Bosnia and Herzegovina in the Management of State Property, (Official Gazette of Bosnia and Herzegovina 10/05, 18/05, 69/05, 70/05) shall be amended to conform with this Law.

This Decision shall come into force on forthwith and shall be published without delay in the "Official Gazette of Bosnia and Herzegovina".

Sarajevo, 18 March 2006
Christian Schwarz-Schilling
High Representative

Law on Amendments to the Law on Temporary Prohibition of Disposal of State Property of Bosnia and Herzegovina

Article 1

In Article 4 of the Law on the Temporary Prohibition of Disposal of State Property of Bosnia and Herzegovina, Official Gazette of Bosnia and Herzegovina, 18/05, the words "one year from the day of the entry into force of this Law" shall be deleted and shall be replaced with the words "30 September 2006".

Article 2

This Law shall enter into force forthwith and shall be published without delay in the "Official Gazette of Bosnia and Herzegovina".