

Decision Amending the Law on the Temporary Prohibition of Disposal of State Property of Bosnia and Herzegovina

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”;

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 Declaration, 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-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 the 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”);

Considering that, in accordance with the aforementioned Decision, the Commission is tasked, among other things, with proposing legislation that regulates the identification of which property is owned by Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, Republika Srpska and Brcko District of Bosnia and Herzegovina, and that specifies their respective rights of ownership and management of State Property;

Recalling that the Law on the Temporary Prohibition of Disposal of State Property of Bosnia and Herzegovina, (“Official Gazette of Bosnia and Herzegovina” No 18/05, 29/06, 85/06, 32/07, 41/07, 74/07) temporarily prohibits disposals of a State Property until the earlier of either the entry into force of the above-mentioned legislation on ownership rights and management of State Property or on 31 December 2007;

Considering further that, pursuant to Article 4a of the aforementioned Decision, the Commission is additionally tasked with deciding upon requests for “exemption(s) of certain state property from the ban imposed by the laws on temporary prohibition of disposal of State Property at the level of Bosnia and Herzegovina, Federation of Bosnia and Herzegovina and Republika Srpska;”

Bearing in mind the Conclusion of Council of Ministers of Bosnia and Herzegovina, adopted at its 11th session held on 24 May 2007, by which it called for negotiations with Entity and Brcko District governments towards an intergovernmental agreement on State Property, and by which it called upon the Public Attorney of Bosnia and Herzegovina to undertake measures to ensure the protection of State Property, including through the preparation of appropriate legislation;

Recalling that, in its Declaration of 19 June 2007, the Steering Board of the Peace Implementation Council expressed deep dissatisfaction with “the three-year failure of the State and Entity authorities to reach an agreement on the issue of apportionment of State Property”;

Recalling further that the Peace Implementation Council Steering Board at their meeting on 30 and 31 October

this year “reminded the three prime ministers of the urgent need to reach an inter-governmental agreement on this question and requested the High Representative to undertake all appropriate measures to bring this issue to a conclusion”;

Regretting that the temporary prohibition of disposals of State Property will expire on 31 December 2007, in accordance with the Decision of the High Representative Amending the Law on Temporary Prohibition of Disposal of State Property of Bosnia and Herzegovina (“Official Gazette of Bosnia and Herzegovina” No. 74/07), prior to the enactment of the legislation on the ownership rights and management responsibilities of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, Republika Srpska and Brcko District of Bosnia and Herzegovina regarding State Property;

Further regretting the lack of measurable progress by the State, Entity and Brcko District authorities, thus far, towards reaching an agreement on the apportionment of State Property, and on new legislation for its future regulation;

Acknowledging the 18 December 2007 request to the High Representative from the Chair of the BiH Council of Ministers for an extension of the temporary prohibition to allow additional time for Bosnia and Herzegovina, the Entities and the District of Brcko to reach agreement on the aforementioned property allocation and to enact new legislation;

Recognizing that the protection of the interests of Bosnia and Herzegovina and its subdivisions from the potential prejudice posed by further disposals of State Property prior to the enactment of appropriate legislation requires another extension of the laws temporarily prohibiting the disposal of State Property by Bosnia and Herzegovina, the Entities, or any of its subdivisions;

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 on the date provided for by Article 2 therein.

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” No. 10/05, 18/05, 69/05, 70/05) shall be amended to conform with this Law.

This Decision shall enter into force forthwith and shall be published without delay in the “Official Gazette of Bosnia and Herzegovina”.

Sarajevo, 19 December 2007

Miroslav Lajčák
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" No. 18/05, 29/06, 85/06, 32/07, 41/07 and 74/07) the words "31 December 2007" shall be replaced with the words "30 June 2008".

Article 2

This Law shall enter into force on the day of its publication in the "Official Gazette of Bosnia and Herzegovina."