

OHR Inventory Team Established

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”);

Noting further that the Steering Board of the Peace Implementation Council, at their meeting on 27 February 2008, defined the “Acceptable and Sustainable Resolution of the Issue of Apportionment of Property between State and other Levels of Government” as the first of five objectives that will need to be delivered by the authorities of Bosnia and Herzegovina prior to Office of the High Representative’s transition” into the Office of the European Union Special Representative, called upon the authorities in Bosnia and Herzegovina to “achieve these objectives and contribute to fulfilling these conditions as soon as possible,” and further requested that the “High Representative undertakes all appropriate measures to ensure that the above objectives are met”;

Recognizing that the sustainable apportionment of property between the State and other levels of government in Bosnia and Herzegovina, which is the first of five objectives required to be met for the transition of the Office of the High Representative into the European Union Special Representative, cannot be met without an inventory of property to be apportioned between the authorities of Bosnia and Herzegovina;

Considering that, on 9 April 2009 the Council of Ministers adopted a decision “Establishing a Working Group for Property Inventory,” (“Official Gazette of Bosnia and Herzegovina” No. 33/09, hereinafter: Inventory Working Group) to compile an inventory of property in accordance with Article 2 of the BiH Council of Ministers’ decision establishing the Commission for State Property by 30 September 2009;

Regretting that, after more than five months since its establishment, the Inventory Working Group has yet to begin compiling data and has thus far failed to even reach agreement on the basic parameters for conducting the inventory and therefore will be unable to complete their work prior to the expiration of the deadlines set by the Council of Ministers of Bosnia and Herzegovina;

Noting the “concern and disappointment” expressed by the Steering Board Political Directors of the Peace Implementation Council on 30 June 2009 with the level of progress reached by the authorities of Bosnia and Herzegovina towards meeting the objectives required for the transition of the Office of the High Representative in the Office of the European Union Special Representative, including on the first objective of a sustainable apportionment of State Property;

Further Recalling the support expressed by the Ambassadors of the Peace Implementation Council's Steering Board on 7 August 2009 for the Office of the High Representative to "facilitate the speedier resolution of the State Property transition benchmark" by providing the authorities of Bosnia and Herzegovina with "technical assistance compiling a State Property inventory and the auditing of its results;

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

DECISION

On the Inventory of State Property In and Outside Bosnia and Herzegovina

Article 1

The Office of the High Representative shall assist the authorities of Bosnia and Herzegovina and its subdivisions to compile an inventory of State Property by gathering data on immovable property falling within the scope of assets specified by the 9 April 2009 Decision of the Council of Ministers of Bosnia and Herzegovina "*Establishing the Inventory Working Group* (*Official Gazette of Bosnia and Herzegovina*," no. 33/09).

Article 2

The High Representative may specify, through either direct written correspondence or the official website of the Office of the High Representative, all documentation that shall be submitted by relevant authorities in Bosnia and Herzegovina for the completion of the State Property inventory.

Article 3

The inventory of immovable property specified by Article 1 of this Decision shall serve as the basis for ensuring that each level of authority in Bosnia and Herzegovina owns the property necessary for the exercise of their respective constitutional and legal competences.

Upon completion, the inventory of State Property compiled pursuant to this Decision shall be delivered to the governments of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, and the Republika Srpska and the Brcko District of Bosnia and Herzegovina.

The inventory delivered to the authorities of Bosnia and Herzegovina in accordance with the previous paragraph of this Article shall serve as the basis for discussions towards an intergovernmental agreement for resolving the State Property objective as established by the Peace Implementation Council.

Article 4

The High Representative hereby takes this Decision, as with each and every one of them, pursuant to his international mandate as provided for by the General Framework Agreement for Peace in Bosnia and Herzegovina, under which, in accordance with Annex 10 thereof, the authorities of Bosnia and Herzegovina are obliged to fully cooperate with the High Representative and his staff, including with respect to requests for information required for civilian implementation of the peace settlement.

The Inventory Working Group established by the Council of Ministers of Bosnia and Herzegovina shall refrain from undertaking any activities that might prejudice or otherwise undermine the compilation of an inventory of State Property with this Decision.

Article 5

Each and every application or official request as may be required by law or regulation to be made to, or to be lodged, with the authorities of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, and Republika Srpska and the Brcko District of Bosnia and Herzegovina, with a view to obtaining information and documentation necessary for the inventory of property, is hereby deemed to have been so made, and lodged in proper and due form.

Article 6

In addition, each and every fee, cost and payment, administrative or otherwise, that may otherwise be required by the laws and regulations of Bosnia and Herzegovina and any of its subdivisions is hereby waived in full.

Article 7

For the avoidance of any doubt, the inventory of immovable state property compiled pursuant to this Decision shall in no way prejudice the outcome of the process of apportioning state property ownership between Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, and Republika Srpska and the Brcko District of Bosnia and Herzegovina, on which the aforesaid parties must reach agreement.

Additionally for the avoidance of doubt, the intergovernmental agreement apportioning ownership of immovable State Property identified by the inventory compiled pursuant to this Decision shall in no way prejudice the ownership rights of the State and other levels of government with respect to State Property not encompassed by the intergovernmental agreement provided for under Article 3, paragraph 3 of this Decision as may be subsequently resolved by a court of competent jurisdiction or by future legislation, including with respect to, but not limited to, movable and immovable property that otherwise falls within the scope of State Property defined by Article 1 of this Decision, which is not encompassed by the inventory compiled pursuant to this Decision.

Article 8

This Decision shall enter into force forthwith and shall be published without delay in the "Official Gazette of Bosnia and Herzegovina, the Official Gazette of the Federation of Bosnia and Herzegovina, the Official Gazette of Republika Srpska, and the Official Gazette of the Brcko District of Bosnia and Herzegovina.

Sarajevo, 11 September 2009

Dr. Valentin Inzko
High Representative