

Decision Enacting the Law on Amendments to the Law on Citizenship of Republika Srpska

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”;

Mindful of the fact that the peace implementation process, which continues to be pursued under the aegis of the General Framework Agreement for Peace in Bosnia and Herzegovina, is not yet complete;

Further mindful of the fact that the peace implementation process requires to be completed in order that a stable political and security environment in Bosnia and Herzegovina is established;

Emphasizing that the Brčko Final Award and its Annex of 18 August 1999 envisages the possibility for any resident of the District to change his or her entity citizenship;

Recalling that the Law on Citizenship of Bosnia and Herzegovina, the Law on Citizenship of the Republika Srpska and the Law on Citizenship of the Federation of Bosnia and Herzegovina envisage an inter-entity agreement to provide mechanisms for changing of the entity citizenship for certain categories of citizens of Bosnia and Herzegovina;

Deploing that such an inter-entity agreement, which would also provide Brčko District residents a mechanism to change their entity citizenship, was never concluded, regardless of repeated calls to Entity authorities to do so;

Recalling also that no other solution was enacted by the authorities in Bosnia and Herzegovina to implement the Brčko Final Award and its Annex related to the right of Brčko District residents to change their entity citizenship;

Bearing in mind that the right to vote of Brčko District residents for the members of the Presidency and the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina as well as in the Entity elections is linked to their entity citizenship, and that failure of the authorities to provide for a sustainable mechanism to change entity citizenship results in the inability for the resident to exercise his or her voting option and to vote in one or the other Entity;

Mindful of the fact that the Steering Board of Peace Implementation Council, at its meeting on 27 February 2008, defined the “Completion of the Brčko Final Award” as one of the objectives that need to be delivered by the authorities in Bosnia and Herzegovina prior to transition of the Office of the High Representative into the European Union Special Representative, called upon the authorities in Bosnia and Herzegovina to achieve these objectives as soon as possible and further requested the High Representative to undertake all appropriate measures to ensure that the above objectives are met;

Noting that, with the aim of completing the Supervisory regime and implementing the Final Award, the Brčko Supervisor wrote in March 2008 to the Prime Minister of the Federation of Bosnia and Herzegovina and President of the Government of Republika Srpska reminding them that the absence of an inter-entity agreement put certain categories of District residents in an unequal situation, and asking them to consider an adequate solution;

Recalling that the Steering Board of the Peace Implementation Council, at its meeting in Sarajevo on 25 and 26 March 2009, further urged the competent authorities to ensure rapid progress towards completion of the Brčko Final Award, by resolving remaining issues under the Final Award, including the issue of entity citizenship;

Recalling further that the Steering Board of the Peace Implementation Council, at its meeting in Sarajevo on 29 and 30 June 2009, stated that the District institutions as a whole are now functioning effectively and apparently permanently but that the Entities have not yet fulfilled their remaining obligations under the Awards of the Tribunal to [...] allow for change of entity citizenship for Brčko residents...” and called upon the Entities, and the State, where appropriate, to resolve those issues no later than 15 September 2009;

Aware that, on 10 July 2009, the Brčko Supervisor welcomed the unanimous adoption by the Assembly of the Brčko District of a Resolution calling upon the relevant State and Entity institutions to cooperate with the authorities of the Brčko District on resolving the issues identified by the Peace Implementation Council within the deadline identified by the Peace Implementation Council;

Noting with disappointment that the fulfilment of the Entities’ obligations that would enable the Supervisor to finally notify the Arbitral Tribunal that the implementation of the Final Award is complete and pave the way for the Peace Implementation Council to take a decision on terminating the Supervisory regime in the Brčko District of Bosnia and Herzegovina at its scheduled meeting in November was not achieved by the identified deadline of 15 September 2009;

Being seized of the urgency, and

having considered and borne in mind all these matters,

the High Representative hereby issues the following

DECISION

Enacting the Law on Amendments to the Law on Citizenship of Republika Srpska

The Law which follows and which forms an integral part of this Decision shall enter into force as provided for in Article 7 thereof on an interim basis, until such time as the National Assembly of the Republika Srpska adopts this Law in due form, without amendment and with no conditions attached.

This Decision shall be published on the official website of the Office of the High Representative and shall come into effect forthwith.

This Decision shall be published in the “Official Gazette of the Republika Srpska” without delay.

Sarajevo, 18 September 2009

Dr. Valentin Inzko
High Representative

LAW

ON AMENDMENTS TO THE LAW ON CITIZENSHIP OF REPUBLIKA SRPSKA

Article 1

(Amendment to Article 5)

In the Law on Citizenship of Republika Srpska ("Official Gazette of Republika Srpska", Nos. 35/99, 17/00, 64/05 and 58/09; hereinafter: the Law), in Article 5, after sub-paragraph 2, a new sub-paragraph 3 shall be added to read:

"3. by admission of a citizen of the Federation of Bosnia and Herzegovina into the citizenship of Republika Srpska;"

Current sub-paragraphs 3, 4, and 5 shall become sub-paragraphs 4, 5 and 6.

Article 2

(New Article 31.a)

After Article 31 of the Law, a new Article 31.a shall be added to read:

"Article 31.a

A citizen of Republika Srpska who has a permanent residence in the Brčko District of Bosnia and Herzegovina remains a citizen of Republika Srpska, unless he changes his Entity citizenship by acquisition of the citizenship of the Federation of Bosnia and Herzegovina.

A person who has a permanent residence in the Brčko District of Bosnia and Herzegovina, and who is a citizen of Bosnia and Herzegovina, but has no Entity citizenship stated, shall acquire the citizenship of Republika Srpska if he or she so wishes.

A person who has a permanent residence in the Brčko District of Bosnia and Herzegovina, and who is a citizen of Bosnia and Herzegovina and a citizen of the Federation of Bosnia and Herzegovina, shall acquire the citizenship of Republika Srpska if he or she so wishes.

The right of a citizen of Bosnia and Herzegovina who has a permanent residence in the Brčko District of Bosnia and Herzegovina to choose the citizenship of Republika Srpska or to change his or her Entity citizenship by acquisition of the citizenship of Republika Srpska may be exercised only once on the basis of being a Brčko District resident."

Article 3

(Amendment to Article 32)

In Article 32 of the Law, after paragraph (2) a new paragraph (3) shall be added to read:

"A permanent resident of the Brčko District of Bosnia and Herzegovina from Article 31.a, paragraph (2) and (3) of this Law, who wishes to acquire the citizenship of Republika Srpska by exercising the right to choose Entity citizenship or by changing the Entity citizenship, shall submit a written request to the competent Ministry of the Republika Srpska, through the competent body of the Brčko District of Bosnia and Herzegovina. The request shall contain a statement on choosing the citizenship of Republika Srpska or a statement on changing the Entity citizenship by acquisition of citizenship of Republika Srpska and shall be supplemented with the certificate on citizenship of Bosnia and Herzegovina or a verified copy of travel document of Bosnia and Herzegovina, a verified copy of identity card and a certificate of permanent residency in the Brcko District of Bosnia and Herzegovina."

Current paragraph (3) of Article 32 of the Law shall become paragraph (4).

Article 4

(Amendments to Article 33)

In Article 33 of the Law, new paragraphs (3) and (4) shall be added to read:

“In case of the request referred to in Article 32, paragraph (3), of this Law, the competent Ministry of the Republika Srpska is obliged to decide on the request within the deadline of 60 days from the date of receipt of the request and shall deliver the decision to the competent body of the Brčko District of Bosnia and Herzegovina within the deadline of 15 days from the date the decision was passed. In case of the request for change of Entity citizenship, the decision shall also be delivered to the competent body of the Federation of Bosnia and Herzegovina within the same deadline.

If the competent Ministry of the Republika Srpska fails to pass the decision within the deadline of 60 days as referred to in paragraph (3) of this Article, it shall be considered that the person fulfils the conditions for acquisition of the citizenship of Republika Srpska and the citizenship shall be registered in the registry books without special decision.”

Article 5

(Amendment to Article 34)

In Article 34 of the Law, paragraph (1), the words “9 and 10 of this Law” shall be replaced by the words “9, 10, and 31.a of this Law”.

Article 6

(Amendment to Article 38)

In Article 38 of the Law, paragraph (2), the words “9 and 10 of this Law” shall be replaced by the words “9 and 10, as well as pursuant to the provision of Article 33, paragraph (4) of this Law”.

Article 7

(Entry into Force of this Law)

This Law shall enter into force on the eighth day after the date of its publication in the “Official Gazette of Republika Srpska.”