

Decision Enacting the Law on Amendments to the Law on Citizenship 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 “[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 certain categories of citizens of Bosnia and Herzegovina to change their entity citizenship;

Deploring that such an inter-entity agreement, which would also provide a mechanism for the Brčko District residents 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 the Brčko District residents to change their entity citizenship;

Bearing in mind that the right of Brčko District residents to vote 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 the Entities, and the State, where appropriate, to resolve those issues no later than 15 September 2009;

Aware that, on 10 July 2009, Brčko Supervisor welcomed the unanimous adoption by the Assembly of the Brčko District of a Resolution calling upon the relevant State and the 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

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The Law which follows and which forms an integral part of this Decision shall enter into force as provided for in Article 4 thereof 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.

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 Bosnia and Herzegovina" without delay.

Sarajevo, 18 September 2009

Dr. Valentin Inzko
High Representative

LAW

ON AMENDMENTS TO THE LAW ON CITIZENSHIP OF BOSNIA AND HERZEGOVINA

Article 1

(Amendment to Article 6)

In the Law on Citizenship of Bosnia and Herzegovina (“Official Gazette of Bosnia and Herzegovina”, Nos. 4/97, 13/99, 41/02, 6/03, 14/03, 82/05 and 43/09; hereinafter: the Law), in Article 6, paragraph 4, after the words “BiH citizens register with the competent BiH authority at home or abroad;” the word “or” shall be added.

Article 2

(New Article 29.a)

After Article 29 of the Law, a new Article 29.a shall be added to read:

“Article 29.a

(1) A citizen of BiH who has a permanent residence in the Brčko District of Bosnia and Herzegovina and who has an Entity citizenship, shall remain a citizen of that Entity, unless he or she, pursuant to his or her own request, changes his or her Entity citizenship.

(2) A citizen of BiH who has a permanent residence in the Brčko District of Bosnia and Herzegovina and who has no Entity citizenship stated has a right to choose his or her Entity citizenship.

(3) Persons with permanent residence in the Brčko District of Bosnia and Herzegovina who acquire the citizenship of BiH by naturalisation choose their Entity citizenship.”

Article 3

(Amendments to Article 35)

In Article 35 of the Law, paragraph (3), after the words “the competent Entity authorities”, the words “or the body in the Brčko District of Bosnia and Herzegovina” shall be added.

In paragraph (5) Article 35 of the Law, after the words “The competent bodies in the Entities”, the words “and the body in the Brčko District of Bosnia and Herzegovina” shall be added.

Article 4

(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 Bosnia and Herzegovina”.