

Pursuant to Article 17 of the Law on the Council of Ministers of Bosnia-Herzegovina (Official Gazette of BiH no. 30/03 and 42/04), in relation to the conclusion of the Council of Ministers of Bosnia and Herzegovina at its 72<sup>nd</sup> session held on 16 December 2004 adopted the following

**DECISION 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-HERZEGOVINA  
IN THE MANAGEMENT OF STATE PROPERTY**

**Article 1**

This Decision shall establish the State Property Commission (hereinafter: the Commission) to develop criteria for identification and distribution of state property among Bosnia and Herzegovina, the Entities and Brcko District, and the regulation on management of that property and propose draft Legislation on rights of ownership and management of State Property.

The Commission shall be formed as a standing body of the Council of Ministers of Bosnia and Herzegovina, which will function pending the final adoption of the stated legislation.

**Article 2**

The Commission which will be formed for the tasks referred to in the previous paragraph shall imply the following under "state property":

- a) Property consisting of movable or immovable properties, money, monetary and property claims which belongs to the state of Bosnia and Herzegovina (as internationally recognized state) pursuant to the international Agreement on Succession Issues signed on 29 June 2001 by the states of Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Slovenia and the Federal Republic of Yugoslavia, regardless of whether, on the day of adoption of this Decision, the said property is considered to be owned or possessed by, or registered as the property of any level of government or public organization in Bosnia and Herzegovina and regardless of whether the said property has, since the cessation of the existence of the Socialist Federal Republic of Yugoslavia, been disposed of in any manner or form by any legal person or body either private or public; or
- b) Property consisting of movable or immovable properties, money, monetary and property claims, for which the right of disposal and management belonged to the former Socialist Republic of Bosnia and Herzegovina and any of its subdivisions (hereinafter SRBIH) before 31 December 1991, regardless of whether the said property is, on the day of adoption of this Decision, considered to be owned or possessed by, or registered as the property of any level of government established by the Constitution of Bosnia and Herzegovina or any other level of government or public organization in Bosnia and Herzegovina and regardless of whether the said property has, since the cessation of the existence of the SRBIH been disposed of in manner or form by any legal person or body either private or public; or
- c) Any property which the Commission, after analyzing the cadastre, land registry records and other public registries, finds to fall under the distribution as referred to in Article 3, paragraph 1, item a) of this Decision.

### **Article 3**

In accordance with Article 1 of this Decision, the Commission shall prepare:

- a) criteria to be used in order to identify which property is owned by Bosnia and Herzegovina, the Entities and Brcko District;
- b) draft legislation to be adopted, which ensures that the criteria referred to in item a) of this Article can be implemented;
- c) proposals concerning the registration of assets in the public registries in Bosnia and Herzegovina and in the territories of the other countries of the former SFRY, or any other relevant country;
- d) proposals as to the criteria under which Bosnia and Herzegovina can expropriate assets owned by the Entities and Brcko District;
- e) proposals for an appropriate compensation method, if necessary, which shall include an analysis of the financial implications of the proposed solutions regarding expropriation in the mentioned draft legislation.

### **Article 4**

The Commission shall prepare, as appropriate, guidelines, draft legislation and other regulations, amendments to legislation and other legal acts as may hereafter be required to be enacted by the Parliamentary Assembly of Bosnia and Herzegovina, by the legislatures of the Federation of Bosnia and Herzegovina, Republika Srpska, Brcko District and the Cantons respectively, as well as the Council of Ministers of Bosnia-Herzegovina, Government of the Federation of Bosnia and Herzegovina, cantonal governments, Brcko District Government, and the Government of Republika Srpska.

### **Article 5**

In the fulfilment of its mandate, the Commission shall be guided by the following principles:

- a) The principle of full implementation of the constitutional obligation to transform socially-owned property to other forms of ownership;
- b) The principle according to which each level of government owns property which is necessary or intended for the exercise of activities performed by each level of government in accordance with the Constitution of Bosnia and Herzegovina;
- c) The recognised principles governing ownership over immovable property such as unique rights of ownership, unity of immovable property title and the mandatory registration in public registries, and the principle of confidence in land books.

### **Article 6**

The Commission shall be composed of twelve (12) members.

The members of Commission shall represent:

- a) Office of the Chair of the Council of Ministers
- b) The Public Attorney's Office of Bosnia and Herzegovina
- c) Common Services of the Institutions of Bosnia and Herzegovina;
- d) Ministry of Finance and Treasury of Bosnia and Herzegovina
- e) Ministry of Justice of Bosnia and Herzegovina
- f) Ministry of Justice of the Federation of Bosnia and Herzegovina
- g) Ministry of Justice of Republika Srpska
- h) The Public Attorney's Office of the Federation of Bosnia and Herzegovina
- i) The Public Attorney's Office of Republika Srpska
- j) Ministry of Finance of the Federation of Bosnia and Herzegovina

- k) Ministry of Finance of Republika Srpska.
- l) Brcko District Government

The Secretary of the Commission shall be the representative of the Ministry of Justice of Bosnia and Herzegovina.

The Commission shall elect its Chairman at its inaugural session.

The Heads of the Institutions represented in the Commission shall ensure that their Institution is represented by a representative entrusted with full powers of representation including the power to take decisions on its behalf at the Commission's sessions.

The Decision on appointment of the Commission members shall be made by the Council of Ministers at the session following adoption of the Decision on Establishing the Commission.

#### **Article 7**

The Commission may also have permanent observers including representatives of the Office of the High Representative in BiH.

Permanent observers shall be entitled to participate in all aspects of the work of the Commission but shall not be entitled to vote.

#### **Article 8**

The Chairman may invite legal, economic and other experts to participate in the work of the Commission as guests, for the purpose of assisting the Commission to fulfill its mandate.

#### **Article 9**

The Chairman shall be responsible for coordinating the work of the Commission.

A quorum comprising a simple majority of appointed members shall be required for holding meetings of the Commission.

The Commission can take decisions and adopt proposals by a simple majority vote of the members present, whereas the meeting must be attended by a minimum of one Commission member from the level of each entity.

Members of the Commission and any person participating in the work of the Commission shall be participating ex officio.

The Chairman may request bodies of Bosnia and Herzegovina and the Entities to provide information on operational, financial and administrative guidelines necessary to further the work of the Commission.

The Administration of the Commission shall be provisional body comprised of appropriate staff from the institutions of Bosnia and Herzegovina with necessary qualifications required for the work of the Commission.

#### **Article 10**

The Commission shall, by 30 May 2005, prepare final report on its work for the Chairman of the Council of Ministers and/or propose the relevant draft legislation within the same timeframe.

In case the Commission fails to reach a concensus with regard to the final report from the previous paragraph of this Article, the Chairman of the Commission shall submit to the Chairman of the Council of Ministers a report on all issues related to the work of the Commission.

#### **Article 11**

This Decision shall enter into force on the day of its publication in the “Official Gazette of Bosnia and Herzegovina”.