

HR suspends application of RS Law on State Property

The High Representative in Bosnia and Herzegovina, Valentin Inzko, today issued an order suspending the application of the *RS Law on the Status of State Property Situated on the Territory of the Republika Srpska and under the Disposal Ban*, pending a final decision by the BiH Constitutional Court.

Considering announcements that there will be at least one domestic challenge to the constitutionality of the RS State Property Law before the BiH Constitutional Court, the High Representative's order will ensure that the situation on the ground will not be complicated by the law being implemented before the Court reviews the case and issues its Decision.

Today's order prevents the legal uncertainty that would follow any act which would change the ownership over these properties before the Constitutional Court has rendered its final decision. It does not prejudice a decision in favor of any side; instead it allows the competent institution time to review the case.

The High Representative also warned that unless and until the Constitutional Court has rendered a final decision on the matter concerning the law in question, all competent authorities must refrain from applying the law. This includes an obligation by all competent authorities to refrain from taking action to change in relevant registries the ownership rights of properties falling under the disposal bans earlier issued by the High Representative.

In the meantime, the newly elected authorities should do their utmost to settle the question of State Property as quickly as possible. "Finding agreement on State property is a test of the seriousness of those elected in October", HR Inzko said. This agreement would ensure that each level of authority in Bosnia and Herzegovina owns the property it needs to exercise its respective constitutional and legal competencies.

HR Inzko also reiterated that under the earlier HR-enacted bans on disposal of state property, unilateral action by any level of government in BiH is prohibited. "It is not only the RS, but also the Federation and State levels, which are prohibited from disposing of state property before an acceptable and sustainable resolution of the issue of apportionment between the levels of government is reached."

Since 2004 the Steering Board of the Peace Implementation Council (PIC SB) has called for a lasting solution to this issue, and the BiH Council of Ministers has tasked a Commission to propose appropriate legislation. In parallel, the High Representative enacted several Disposal Bans to prevent potential prejudice by ownership transfers.

Resolution of the State Property issue between the State and other levels of government is a prerequisite for legal certainty over ownership of these properties; it will stimulate investment and economic growth and would support reconciliation in BiH. An acceptable and sustainable apportionment of State property is also one of the requirements for OHR closure, as outlined by the PIC Steering Board in the '5plus2' agenda adopted in February 2008. In this regard, the PIC has required a solution to be mutually agreed, and it has urged the authorities in BiH to refrain from taking unilateral actions, reminding them that such actions only have the effect of preventing resolution of the state property objective.