

High Representative Puts RSNA Conclusions of 14 May 2009 Out of Force

On 14 May 2009 the Republika Srpska National Assembly adopted conclusions on “Summary on Effects of Transfer of Constitutional Competencies from the Republika Srpska to the Institutions of Bosnia and Herzegovina”. With their publication in the Official Gazette on 15 June 2009, these Conclusions entered into force on 16 June 2009.

As the final authority to interpret the civilian aspects of the Dayton Peace Agreement, the High Representative made a detailed legal assessment and concluded that the issued conclusions are mainly not in line with the Dayton agreement. The High Representative also recalls the position of the institutions and member states of the European Union concerning the RSNA Conclusions. Implementation of the conclusions would undermine the division of competencies between the State and the Entities, seek to give the RSNA veto rights in State level matters, undermine final and binding decisions of the BiH Constitutional Court, a Dayton institution, and determine that the HR’s powers are unconstitutional. As a result, the High Representative decided to use his powers and put the RSNA Conclusions out of force.

Relevant Resolutions adopted by the Security Council of the United Nations under Chapter VII of the UN Charter clearly state that, under Annex 10 of the Peace Agreement the High Representative is the final authority regarding the interpretation of civilian aspects of implementation of the Peace Agreement and that in case of dispute he may give his interpretation, make recommendations, and make binding decisions as he judges necessary. This position was elaborated by the Peace Implementation Council at its session in Bonn on 9 and 10 December 1997 and reconfirmed by all UNSC Resolutions on BiH, most recently Resolution 1845 adopted on 20 November 2008.

With this decision, the High Representative does not question the right of each of the Entities, Constituent Peoples or Others living in Bosnia and Herzegovina to define or protect their interests.

“Political parties, political representatives, other institutions as well as individuals, of course have the right to present their opinions and to protect their dignity, and I am deeply convinced that they must ensure that this is done in an appropriate manner.

In the future it will be necessary and useful to discuss and clearly articulate wishes and fears of all the citizens and constituent peoples, bringing together all those whose voices that must also be heard, such as NGO representatives, interest groups and other associations.

The dialogue must be constructive and positive in order to reach a common vision for the future of the country and its constitutional framework,” High Representative Valentin Inzko said.

By putting the RSNA Conclusions out of force and annulling them and legally restoring the situation to that of May 13, 2009, before the adoption of the conclusions (“Restitutio in integrum”), the High Representative has created legal clarity and an atmosphere for a constructive dialogue between representatives of all peoples. This could include the possibility for domestic institutions, including the Constitutional Court, to be consulted on these issues.

“At the same time, I am giving the political leaders in BiH an opportunity to focus on the priorities of this country’s European future and to complete the objectives set by the Peace Implementation Council. Successful politics is about creating a situation that benefits everyone. This cannot be achieved through exclusive demands and zero-sum game where someone always has to loose.

Bosnia and Herzegovina needs to keep up with the rest of the region, where countries progress on the basis of their own merits. The EU remains committed to BiH and its European perspective” concluded Valentin Inzko.