

Decision imposing the RS Law on Implementation of Decisions of the Commission to Preserve National Monuments established under Annex 8 of the Dayton Peace Agreement

In the exercise of the powers vested in me by Article V of Annex 10 (Agreement on Civilian Implementation of the Peace Settlement) to the General 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 Art. II.1.(d) of the last said Agreement, according to the terms of which the High Representative shall “Facilitate, 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”;

Considering the fact that the proper protection, conservation, presentation and rehabilitation of the designated National Monuments in Bosnia and Herzegovina is of utmost importance for the reconciliation process throughout Bosnia and Herzegovina as well as for the return of displaced persons and refugees into their pre-war places of residence;

Bearing in mind that Article V:5 of Annex 8 of the General Framework Agreement for Peace in Bosnia provides that: “In any case in which the Commission issues a decision designating property as a National Monument, the Entity in whose territory the property is situated (a) shall make every effort to take appropriate legal, scientific technical, administrative and financial measures necessary for the protection, conservation, presentation and rehabilitation of the property, and (b) shall refrain from taking any deliberate measures that might damage the property”;

Noting that the domestic law of Republika Srpska is silent as to what level of protection should be afforded to National Monuments designated as such by the Commission to Preserve National Monuments established under Article I of the said Annex;

Bearing in mind the fact that pursuant to article V.4 of the said annex: “decisions of the commission shall be final and enforceable in accordance with domestic law”;

Considering that the absence of appropriate legislation, harmonised with implementing legislation in the Federation of Bosnia and Herzegovina, to meet the Annex 8 obligations of Republika Srpska will delay the process *inter alia* of rehabilitation of National Monuments in Republika Srpska, jeopardize the return of refugees and displaced persons to

Republika Srpska, and undermine efforts to create a positive environment for return throughout Bosnia and Herzegovina.

Having taken into account and considered the totality of the matters aforesaid, I hereby issue the following Decision enacting the

Law on Implementation of Decisions of the Commission to
Preserve National Monuments Established Under Annex 8 to the
General Framework Agreement for Peace in Bosnia and
Herzegovina

The Law that follows shall enter into force as provided for in Article 18 thereof on an interim basis, until such time as the National Assembly of Republika Srpska adopts this law in due form, without amendment and with no conditions attached.

LAW ON IMPLEMENTATION OF DECISIONS OF THE COMMISSION TO
PRESERVE NATIONAL MONUMENTS ESTABLISHED UNDER ANNEX 8 TO THE
GENERAL FRAMEWORK AGREEMENT FOR PEACE IN BOSNIA AND
HERZEGOVINA

I. Subject and purpose of the Law

Article 1

This Law shall regulate implementation of decisions issued by the Commission to Preserve National Monuments established under Annex 8 to the General Framework Agreement for Peace in Bosnia and Herzegovina (hereinafter: the Commission).

II. Definition of terms for the purpose of this Law

Article 2

“National Monument” shall be a property designated by the Commission as a National Monument in accordance with Articles V and VI of Annex 8 to the General Framework Agreement for Peace in Bosnia and Herzegovina (hereinafter: “Annex 8”), and properties listed in the annexed Provisional List of National Monuments, pending a final decision by the Commission regarding their status and without limit of time and whether or not a petition has been submitted regarding the property.

“Ministry” shall mean the Ministry for Urban Planning, Housing Affairs and Utilities, Construction, and Ecology of Republika Srpska.

“Rehabilitation” shall mean the restoring of damaged or destroyed property to the condition in which it was prior to such damage or destruction, to the extent reasonably possible, including construction of a National Monument, at the same location, in the same shape and form, of the same dimensions and made of the same materials as it was before the destruction, by applying the same construction technology whenever reasonably possible.

III. Protection of property specified under Annex 8

Article 3

National Monuments are deemed automatically to have the highest level of protection in the law of Republika Srpska without need of further decision, law, regulation, or otherwise; and in particular the Government of Republika Srpska and all authorities as aforesaid shall be and become responsible for ensuring that each and every step is taken to

effect compliance with the requirements of Article V of Annex 8.

IV. Procedure of issuance of permits for rehabilitation of National Monuments

Article 4

Requests for issuance of permits for rehabilitation of National Monuments shall be decided upon by the Ministry.

Article 5

With the request for issuance of the permit for rehabilitation the owner shall be required to submit (1) a copy of the cadastral plan, (2) proof of ownership or right of usage of land or structure, (3) historical and structural description of the original condition of the structure or complex with the existing architectural, photographic and other documentation including (4) a description of the current condition of the structure or complex, and (5) project of rehabilitation of the structure or complex.

Article 6

The procedure of deciding upon the permits referred to in the preceding Article shall be carried out in accordance with the regulations of the Law on General Administrative Procedure, unless stipulated otherwise by the provisions of this Law.

Article 7

Subject to compliance with Articles 2(3), 5, and 11(2) of this Law, the Ministry shall issue the permits required in respect of the rehabilitation of a National Monument within 30 days of the submission of the request.

Article 8

Decisions made in contravention of this Law shall be null and void.

Article 9

Physical plans made in contravention of the provisions of this Law shall not apply to the protected areas of National Monuments.

Article 10

The rehabilitation project, for a National Monument the structure of which is totally destroyed, is a main project and must be made by a legal person authorised for developing such documentation.

V. Obligatory Cooperation

Article 11

The Republika Srpska, through its competent organs, shall make every effort to take appropriate legal, scientific, technical, administrative and financial measures necessary for the protection, conservation, presentation and rehabilitation of designated National Monuments, and refrain from taking any

deliberate measures that might damage the property.

The Ministry shall take into account any and all relevant findings, explanations and decisions of the Commission issued under Article V(4) of Annex 8.

Article 12

Authorities and institutions of Republika Srpska shall co-operate with the Commission and responsible ministries.

Article 13

City and municipal authorities in Republika Srpska shall forward to the Ministry all requests for rehabilitation of National Monuments within 15 days from the day of entering into force of this Law.

VI. Supervision

Article 14

Supervision over the implementation of this Law shall be carried out by the Inspection for Urban Planning and Construction at the level of the Republic in accordance with the authority specified in the Law on Physical Planning in Republika Srpska.

VII. Penal Provision

Article 15

The responsible person in an administrative body or institution in violation of the provisions of Articles 4, 8, 12 and 13 of this Law shall be penalised with a monetary fine in the amount of 100 KM to 1500 KM for the violation. This shall not prevent the application of any other fines or other penalties for violations of any provision of this law, in accordance with the laws of Republika Srpska.

VIII. Transitional and Final Provisions

Article 16

Provisions of other laws regulating directly or indirectly the issues pertaining to protection, conservation, presentation and rehabilitation of National Monuments shall not apply to the extent that they are in contravention of this Law.

Article 17

If administrative proceedings for issuance of approvals for rehabilitation are initiated before the responsible authority prior to the day of entering into force of this Law and a first instance decision was not made by that date or the decision was annulled before that or returned to the first instance body for renewed proceedings, the proceedings shall be continued under the provisions of this Law.

This shall in no way inhibit the issuance of any permit for rehabilitation nor any action taken in accordance with such a permit, nor any other action taken in accordance with this Law or Annex 8.

Article 18

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

9 February 2002

Wolfgang Petritsch

High Representative

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