

Brcko Supervisor Issues Interim Supervisory Order Temporarily Suspending Eviction of Pavlovic International Bank from Brcko Premises

The Brcko Supervisor Susan Johnson has ordered that, until such time as the Constitutional Court has considered and finally ruled upon a Revision Request submitted by the Brcko District and Pavlovic Bank, no institution or official of Brcko District take any step to evict Pavlovic Bank from its premises in Brcko.

The Supervisor is deeply concerned about the serious confusion with regard to the legal intent of the Constitutional Court's decision, the potentially irreversible harm that could ensue for investors in Brcko District, and the negative effect on the business climate in Brcko and in BiH.

The Supervisor is convinced that a better course of action is to suspend eviction proceedings until the Constitutional Court has had time to issue a decision on the defendant's request for revision. The Supervisory Order will preserve the status quo until the situation can be clarified.

In the Order the Supervisor notes that:

- the decision to evict the bank does not contain reasoning explaining why Pavlovic Bank does not have legitimate title to the Property, or why Privredna Bank should have title to the Property;
- the Constitutional Court has confirmed to the

Supervisor, in writing, that “the property of Pavlovic Bank was not the subject of deliberation. Therefore, the Constitutional Court did not consider the property rights of Pavlovic Bank in the course of making a decision ...”;

- there is therefore confusion as to why Pavlovic Bank should be evicted while the Constitutional Court appears to believe that the case does not concern or affect Pavlovic Bank;
- the appellate process in the lower courts was ongoing and had not been completed at the time Constitutional Court’s decision was issued;
- no party to the case had an opportunity to make representations of any kind to the Constitutional Court about the matter before it;
- Pavlovic and Brcko District have submitted to the Constitutional Court requests for revision of the Decision by the Constitutional Court and sought extensions of the deadline for eviction until such time as the Constitutional Court rules on the Revision Requests; but so far the Constitutional Court has not responded to these requests;
- an eviction now and under these circumstances will cause great and irreparable harm to Pavlovic Bank and its customers; whereas a delay in enforcing the Decision, pending final resolution of the Revision Requests by the Constitutional Court, will not cause significant or irreparable harm to Privredna Bank, and will preserve the status quo until the situation can be clarified; and
- an eviction at this time would undermine one of the basic principles of post-war privatisation in BiH, established in the BiH Framework Law on Privatisation of Enterprises and Banks of 1998, and the Final Arbitral Award, that the right of privatisation of public property resides with the Entity or District Government of the territory where the property is located, and the Decision therefore threatens to set a

precedent for unwinding post-war privatisation throughout Bosnia and Herzegovina.

The Supervisor is confident that the Constitutional Court will be able to resolve the issues outstanding to reach a fair and just resolution of this case in conformity with the Constitution and laws of BiH and the Final Arbitral Award. She calls on all parties in the case to cooperate with each other to reach a mutually agreeable settlement of this dispute.