

Decision Amending the Law on the Temporary Prohibition of Disposal of State Property of BiH

In the exercise of the powers vested in the High Representative by Article V of Annex 10 (Agreement on Civilian Implementation of the Peace Settlement) to the General Framework 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 Article 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”;

Recalling further that the Declaration of the Peace Implementation Council Steering Board, adopted at the level of Political Directors in Sarajevo on 24 September 2004 ,

called for a “lasting solution” to “the issue of State Property”;

Noting that pursuant to the aforesaid, a 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 (hereinafter: Commission), comprised of expert representatives from both Entities of Bosnia and Herzegovina, the Brcko District of Bosnia and Herzegovina and institutions of Bosnia and Herzegovina, was formed in December 2004 by a Decision of the Council of Ministers of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina no. 10/05, 18/05, 69/05, 70/05, hereinafter: “Decision”);

Bearing in mind that pursuant to Article 1 of the aforesaid Decision, the Commission is tasked with proposing draft laws on ownership rights and management of State Property;

Considering, that the Commission, according to Article 3 of the Decision, was specifically tasked, among other things, with preparing “criteria to be used in order to identify which property is owned by Bosnia and Herzegovina, the Entities and Brcko District” and “draft legislation to be adopted, which ensures implementation of identified criteria”;

Bearing in mind that pursuant to Article 4a of the Decision of the Council of Ministers of Bosnia and Herzegovina, the Commission is additionally tasked with deciding upon requests for “exemption(s) of certain state property from the ban imposed by the laws on temporary prohibition of disposal of State Property at the level of Bosnia and Herzegovina, Federation of Bosnia and Herzegovina and Republika Srpska;”

Further noting that the Law on Defense of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, no. 88/05) foresees modalities for transferring property rights

and liabilities over, *inter alia*, immovable property that will continue to serve defense purposes, which partially falls within the category of State Property;

Recognizing the importance of the full implementation of the Law on Defense of Bosnia and Herzegovina, the importance of defense-related immovable property for the normal functioning of defense related institutions of Bosnia and Herzegovina, and the urgency with which defense reform must be implemented;

Considering Further that the deadline, in accordance with the High Representative's Decision Amending the Law on Temporary Prohibition of Disposal of State Property of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina no. 29/06), for the preparation of a final report for the Chairman of the Council of Ministers of Bosnia and Herzegovina and/or the submission of relevant draft legislation, will expire on 30 September 2006, together with the temporary ban on disposing State Property, prior to the completion of the Commission's work;

Further Recognizing that the protection of the interests of Bosnia and Herzegovina, and its subdivisions, from the potential prejudice posed by further disposal of State Property prior to the enactment of appropriate legislation, requires an extension of the Commission's mandate and an extension of the laws temporarily prohibiting the disposal of State Property by Bosnia and Herzegovina, the Entities or any of its subdivisions;

Having considered, borne in mind and noted all the matters aforesaid, the High Representative hereby issues the following:

DECISION

Amending the Law on the Temporary Prohibition of Disposal of

State Property of Bosnia and Herzegovina

which is hereby attached as an integral part of this Decision.

The said Law shall enter into force as a law of Bosnia and Herzegovina , with immediate effect, on an interim basis, until such time as the Parliamentary Assembly of Bosnia and Herzegovina adopts this Law in due form, without amendment and with no conditions attached.

The Decision of Council of Ministers of Bosnia and Herzegovina 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 and Herzegovina in the Management of State Property, (Official Gazette of Bosnia and Herzegovina no. 10/05, 18/05, 69/05, 70/05) shall be amended to conform with this Law.

This Decision shall come into force on forthwith and shall be published without delay in the "Official Gazette of Bosnia and Herzegovina".

Sarajevo, 29 September 2006

Dr. Christian Schwarz-Schilling
High Representative

**Law Amending the Temporary Prohibition of Disposal of State
Property of Bosnia and Herzegovina**

Article 1

In Article 3, following Paragraph 2 a new paragraph is inserted, which reads:

The portion of State Property that will continue to serve defense purposes, pursuant to and in accordance with Articles 71-74 of the Law on Defense of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina , no. 88/05) shall also be exempt from the temporary prohibition imposed by this Law.

Article 2

In Article 4 of the Law on the Temporary Prohibition of Disposal of State Property of Bosnia and Herzegovina, Official Gazette of Bosnia and Herzegovina, no. 18/05 and 29/06, the words "30 September 2006" shall be replaced with the words "May 31, 2007."

Article 3

The Law shall enter into force forthwith and shall be published without delay in the "Official Gazette of Bosnia and Herzegovina."