Decision Enacting the Law on Construction Land of the Federation of Bosnia and Herzegovina

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 the Declaration of the Peace Implementation Council Steering Board adopted at the level of Political

Directors in Brussels on 30 January 2003, in which the Steering Board fully endorsed the Implementation Strategy concerning Annex 7 of the General Framework Agreement for Peace in Bosnia and Herzegovina which had been developed by the UNHCR, the OHR and the Ministry of Human Rights and Refugees and has been presented by the Minister for Human Rights and Refugees of Bosnia and Herzegovina, as an evolving domestic framework for continued progress on returning refugees and displaced persons;

Noting that the Constitution of BiH is based on the promotion of general welfare and economic growth through the protection of private property and the promotion of a market economy;

Further noting that the Constitutional Court, in its decision U 5/98 II *(Official Gazette* of Bosnia and Herzegovina no. 17/00, 30 June 2000), has determined that *the category of socially-owned property is not compatible with the promotion of market economy, since it creates, in theory and practice, serious obstacles in any process of privatization necessary in Bosnia and Herzegovina on the way of establishing a functioning market economy;*

Considering the need for a new Law on Construction Land which recognizes private ownership, ensures transparent and non-discriminatory allocation of state owned construction land, and establishes a process through which users of state-owned land whose rights were canceled without their consent or compensation since 6 April 1992, can have their rights restored;

Recalling further the High Representative's Decision of 27 April 2000, in which the High Representative imposed a ban on, *inter alia,* the disposal, allocation, transfer or sale of state-owned real property, including former socially-owned property, *(Official Gazette* of Bosnia and Herzegovina no. 13/00, *Official Gazette* of the Federation of Bosnia and Herzegovina no. 17/00 and *Official Gazette* of the Republika

Srpska no. 12/00) and which the High Representative extended on December 20, 2000 (*Official Gazette* of Bosnia and Herzegovina no. 34/00, *Official Gazette* of the Federation of Bosnia and Herzegovina no. 56/00 and *Official Gazette* of Republika Srpska no. 44/00), on March 30, 2001 (*Official Gazette* of Bosnia and Herzegovina no. 11/01, *Official Gazette* of the Federation of Bosnia and Herzegovina no. 15/01 and *Official Gazette* of Republika Srpska no. 17/01) and on 31 July 2002 (*Official Gazette* of Bosnia and Herzegovina no. 24/02, *Official Gazette* of the Federation of Bosnia and Herzegovina no.43/02 and *Official Gazette* of Republika Srpska no. 49/02) and on 31 March 2003 *(Official Gazette* of Republika Srpska no. 31/03*)*;

Recalling that pursuant to the aforesaid, a working group comprised of the legal experts from both Entities of Bosnia and Herzegovina and from OHR, prepared a draft text of the Entity Laws on Construction Land, which was submitted to the Entity Governments of Bosnia and Herzegovina in April 2003;

Regretting that notwithstanding the matters aforesaid, the said Code has not been adopted yet;

Stressing the need for the existence of Entity Laws on Construction Land which shall be in conformity with interim property market reforms in the context of the forthcoming property law reform process and which shall comply with guarantees enshrined under the European Convention on Human Rights which itself forms part of the Constitution of Bosnia and Herzegovina;

Mindful both of the urgency and of the need to adopt the Entity Laws on Construction Land for all the reasons as aforesaid and in order to protect the interests of the citizens of Bosnia and Herzegovina;

Noting that the conditions which ought to enable the authorities of the Entities and of the State to dispose of or

otherwise allocate state-owned real property, including former socially-owned property, in a manner that is non-discriminatory and in the best interests of the citizens, do not now exist throughout Bosnia and Herzegovina.

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

DECISION

Enacting the Law on Construction Land of the Federation of Bosnia and Herzegovina

TheLaw on Construction Land of the Federation of Bosnia and Herzegovina**,** which is hereby attached as an integral part of this Decision shall enter into force as provided for in Article 97 thereof but on an interim basis until such time as the Parliament of the Federation of Bosnia and Herzegovina adopts the same in due form, without amendments and with no conditions attached.

This decision comes into effect forthwith and shall be published without delay in the Official Gazette of the Federation of Bosnia and Herzegovina.

LAW ON CONSTRUCTION LAND OF THE FEDERATION OF BOSNIA AND HERZEGOVINA

Sarajevo, 15 May 2003.

Paddy Ashdown
High Representative