

Statement by the High Representative regarding the RS Law on Immovable Property Used for the Functioning of Public Authority

The issue of state property apportionment remains unresolved in 2022 despite repeated calls from the International Community and the efforts invested by the partners of Bosnia and Herzegovina to help resolve this long-standing issue by having state-level legislation.

The Temporary Prohibition of Disposal of State Property remains in force and clearly provides that any decision, act, contract, or other legal instrument disposing of State property concluded contrary to these laws shall be null and void. The RS Law on Immovable Property Used for the Functioning of Public Authority, adopted by the RSNA on 10 February 2022 and published in the RS Official Gazette on 5 April 2022, does not affect the validity of the State property disposal ban and thus, does not change this legal reality.

BiH Constitutional Court decision from July 2012 (Case No. U-1/11) states explicitly that, by virtue of Article I/1 of the Constitution which establishes the principle of continuity, BiH is the titleholder of the entire State Property, including assets of the former SFRY and the former SRBiH, but also public goods, and that the competence to regulate this matter falls within the exclusive responsibility of the BiH Parliamentary Assembly. These views were reiterated in several other decisions of the BiH Constitutional Court related to agricultural land, forests and forestland, rivers and other public goods.

In the Decision from 2012, the BiH Constitutional Court emphasized that “there is a true necessity and positive obligation of BiH to resolve this issue as soon as possible” and that Bosnia and Herzegovina, in exercising the responsibilities relating to State Property, is obliged to take into consideration the interests and needs of the Entities, so that they can also effectively exercise their public powers which are connected with their competences.

In order to avoid confusion and prevent any negative legal consequences, I urge the RS authorities to undertake all necessary activities so that the said RS Law on Immovable Property Used for Functioning of Public Authority is repealed immediately. Resolution of the issue of State Property cannot be achieved through any unilateral actions, but only through a transparent process within the BiH Parliamentary Assembly, which would result in the adoption of the relevant state-level legislation regulating this matter. I invited all stakeholders (*inter alia* the State and the entities) to prepare such legislation in BiH Parliamentary Assembly to ensure a proper apportionment of assets. I once again invite them to actively participate in the establishment and work of the expert Working Group for State and Defense Property in accordance with my letter from 3 December 2021, facilitated if necessary with the establishment of a property commission. I stand ready to assist this process.

Potential investors should be very cautious when engaging in transactions involving ownership over State Property.

Only through respect for the rule of law can Bosnia and Herzegovina attract sustainable foreign investment, which will accelerate economic development for the benefit of all citizens.