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STUDY

**ON SOCIOPOLITICAL, ECONOMIC AND FINANCIAL
FEASIBILITY FOR ESTABLISHING AN ECONOMIC
DEVELOPMENT FUND OF BOSNIA AND HERZEGOVINA
(EUBIHFER)**

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INTRODUCTION

Dramatic changes in terms of ownership over material and financial property have happened in the countries of the Central and Eastern Europe after the fall of communism, i.e. after the introduction of democracy, capitalism and the rules of market economy into the social system.

Special attention in those countries is put on privatisation and denationalization as well as on the question of the state-owned property. More precisely, the question remains which property should remain in the state ownership, who should manage and dispose of it, based on which principles and with which goals. Briefly, in the majority of these countries, there was a need to introduce a model of management, characteristic of private sector, which is why management of the state-owned property through a specialised legal entity/institution was introduced, tasked with business operations involving the state-owned property, in the spirit of a good host, i.e. a manager.

Having in mind that the question of the state-owned property is both, socially and politically, exceptionally significant and an ongoing theme in Bosnia and Herzegovina, we wanted, along with a comparative analysis about the status of the state-owned property, its management and disposing of it, to identify the social rules determining the existing situation in this area as well as to offer, on the basis of universal legal and economic maxims and principles, a rational proposal, which would put the state-owned property into the function of economic development.

2. Legal continuity of the Bosnia and Herzegovina property, as a factor for establishing an Economic Development Fund of Bosnia and Herzegovina

2.1. Historical and legal overview of the roots of the problem related to the state-owned property

Historical and legal continuity reflects one of the elements of statehood of Bosnia and Herzegovina that appears with a prefix of the state as an inalienable integral part of the state-owned property, which, among other, is also a consequence of the nation-building tradition of Bosnia and Herzegovina. The manifestation forms of the state-owned property date back to several hundred years ago and they are a clear indicator that the state-owned property has been significantly utilised. The established rules of disposal of and management of the state-owned property, in a civil liability sense, are a reflection of how this area is organised, as it has been manifested until today, having in mind the present forms of recording the state land recorded as state-owned, which, considering it from this time distance means, in parallel, that the right of the state ownership has never been put into question. The use of state-owned property in BiH, in accordance with the territorial sovereignty and integrity, is put into question primarily because of the asymmetric Constitutional structure, where the state is a hostage of politics. The utilisation of the state-owned property is mainly brought down to the administrative and legal aspect, whereas, in a civil liability sense, we only have sporadic cases that are a reflection of pressures, rather than being a consequence of an established state-owned property management strategy. The continuity of statehood is a guarantee of survival of the state-owned property, which is why a

denial of the state ownership over its own property gets into the elementary right of inviolability of private ownership.

With the aim of exercising its elementary functions, the state, among other, has the state-owned property at its disposal, which, in modern business operations may serve as a guarantee for (non)-fulfilment of contractual obligations as well as pledges, mortgages, both in business operations and financing of projects that are of a wider social significance. Limited authorisations related to the usage of this significant resource make good grounds for the future, having in mind that the property rights have been frozen, whereas with the accession to the Euro-Atlantic integrations, we can expect a more favourable political climate in terms of the rights of disposal as well as the rights of management in accordance with the achieved public management standards. The experience so far has shown careless attitude towards the state ownership, with the competent institutions contributing with their lack of action to a more active role and attempts to deny and usurp the state-owned property.

Continuity of the state of BiH and state-owned property are mutually overlapping, therefore going through historical epochs together, making inseparable elements and contributing to the knowledge that identification of one element necessarily requires identification of another. The problem of legal status of the state-owned property is related to the state of BiH, since undefined property and legal relations in this area can cause far-reaching negative consequences in legal operations of the state-owned property. The questions of who and how manages the state-owned property are of exceptional significance, above all, for the total development of the state. The long-term consequences of good or bad management in a country do not affect only the present citizens, but the future generations as well.

Under the conditions of unresolved legal status of the state-owned property, management of the state-owned property, according to the standards of modern states, is one of the priority tasks of public administration. The events of the recent periods in this area, in their historical context, caused by frequent changes of a form of state organisation, have contributed to the organisation, that is, the legal regulation and status of the state-owned property not being clearly defined. As one of the main reasons behind unlawful usage and management of the state-owned property is the lack of a law on state-owned property and a unique register of the state-owned property at a state level, which is mainly contributed to by deep historical roots, directly related to political, economic, institutional, legal and also sociological problems that have all put the state-owned property into an unenviable position.

In the past, drastic turbulences expressed through the change of socio-economic structure in which the property obtained in this way had become state-owned only to get turned into the socially-owned where the title holder was unknown. After the dissolution of the SFRY, such property was again turned into the state-owned property, on the basis of the Law on Transformation of Socially-Owned Property into State-Owned Property.

Changes of the state organisation have only resolved the problem in a partial manner, according to the needs of the then political situation, which, because of objective circumstances and lack of a clearly defined long-term plan for state-building according to own aspirations in this area, could not have resulted in a better solution of this issue. Taking over of certain legal regulations

from one political system into another was done in continuity, while resolving of the very problem to the end has never been clearly defined, except for some partial solutions. The reasons behind such a disastrous situation are objective in nature, as transformation from the state into the social property was used considering that the property, which was treated as socially-owned property, was the property belonging to all the citizens, so the actual title holder was not known, therefore ending in a widespread opinion that the social property was actually the property of all the BiH citizens. This was an additional aggravating factor for finding a solution for the implementation of reforms in this area. The social property could not have responded to the needs coming with a new socio-political organisation, which ended in an inevitable transformation of the social property into the state-owned property.

The transition that happened in the former communist systems caused the introduction of market economy, which is why the existing form of organisation of the state-owned property, as a consequence, faced stoppages in the implementation of reforms, both in the public sector as well as in the conditions of adjustment to the market competition. The period after the “completed” transformation of the social into the state ownership was marked by the procedure of implementation of privatisation of business enterprises, which had mainly been socially-owned. The competence for privatisation of the state-owned capital in enterprises has unnaturally belonged to the entities which have, through their Privatisation Agencies, performed the sale of state-owned capital in enterprises, without the state having any benefits from it. Immense adverse consequences caused by bad privatisations of strategic business enterprises have violated the state reputation, both within its borders and outside. The state-owned property, as the most extensive as well as the most valuable item, presented an initial trigger for transition from the planned to the market economy, where it had a very significant role in terms of its capacities, but also adjustment to the new understanding of the system of social values.

2.2. Legal continuity of the social and state-owned property

Continuity of the state-owned property was transferred to the new state that has taken over all the property and legal authorisations, thereby, according to the succession right principle, it has become the owner of the property and legal goods, both in terms of movable and immovable assets. It would be significant to mention that historic overthrows, that happened through history, have shown the role of the state as an active subject in the creation of environment, in terms of both administrative and legal as well as private and legal relation of the state-owned property of BiH. The definition of the property ownership right states: “Property ownership is the widest and by its contents the most valuable right: the most complete that exists over an asset about it in a legal order”¹

Within the territorial and political competences that used to belong to it, the SR of BiH has managed the property in social ownership through the Republic’s bodies, that is, the real estates that have been transferred into the social ownership by becoming due, according to the civil law rules, are in the ownership of legal successors of those socio-legal persons, which have obtained

¹ *Pravna enciklopedija*, Savremena administracija, Beograd 1989.s.v (*Legal Encyclopedia*, Contemporary Administration, Belgrade, 1989.).

the right of management, usage or disposal by becoming due.² The social property, generally, presents the form of property of which the title holder is the society, in its entirety. According to the Constitutional maxims, the social property located on the territory of one of the Republics or autonomous provinces was ceded to those Republics for management, if this was not against the state interests, however, the state kept its primacy in terms of the right of disposal, the right of usage and the right of management over property, in accordance with the state needs.³ It was prejudiced that each of the six SFRY republics was the owner of property on its territory, however, only in the case of dissolution there was a basis for transfer from possession into ownership (no entity, including in this the neighbouring countries as well and also the lower levels of governments in BiH had any right to claim ownership over social property), which has proven to be an optimal solution of the question of social property of the SFRY in the coming period.

Abandoning of the non-owner's concept of social ownership inevitably imposed the change of organisational form of enterprises, thereby foreseeing, instead of the former organisations of associated labour, the enterprises that had the form of a joint-stock company or a limited liability companies.⁴ The state-owned property was submitted for management to the administrative bodies, which have used it for the needs of performing the state service, whereas the social property, which was not used for the state needs, i.e. it was recorded in the land registry books as socially-owned property, actually presented public goods, before its being put into the actual use for intended purpose.⁵ Obtaining of the property rights by physical persons over assets that were socially-owned was contrary to the general tendency of socialist tradition developments.⁶ The legal basis for protection of social property was contained in the Constitution, while the status of the other property, including the public goods, such as: forests, rivers, lakes, the sea, which were the goods in general use ceded to business enterprises, unless they were under a form of a civil law regime, which the civil law theory determines as assets out of commercial activities (*res extra commercium*). Management of the social property mainly happened in an unorganised way, without any clear long-term plans based on market needs, which made the situation of the very property additionally more complex, because, in principle, such property has lost in value, partially because of inadequate utilisation of the potentials it had as well as because of the very socio-political organisation, which limited the entrepreneurial spirit.

² Simoneti, "Prelazak nekretnina u društveno vlasništvo protekom vremena: restitucija i pretvorba", Zbornik Pravnog fakulteta Sveučilišta u Rijeci (Zb. Pf. Sveuč. Rij.), Rijeka 28/2007. (*Transition of Real Estates into the Social Ownership over Time: Restitution and Transformation*).

³ Article 2 of the 1974 SFRY Constitution states: "The SFRY consists of the SR of BiH, SR of Macedonia, SR of Slovenia, SR of Serbia, as well as the Socialist Autonomous Province of Vojvodina and Socialist Autonomous Province of Kosovo, which make an integral part of Serbia, SR of Croatia and SR of Montenegro", available at: http://istorija-jugoslavije.online-talk.net/t16-ustav-sfrj-iz-1974_en.word. (11.02. 2014.).

⁴ M. Povlakić, *Transformacija stvarnog prava u Bosni i Hercegovini*, Pravni fakultet Univerziteta u Sarajevu, Sarajevo 2009, 37. (*Transformation of the Real Property Law (Ius in Rem) in Bosnia and Herzegovina*).

⁵ The difference was between the unconstructed city construction land and industrial zones intended for the development of industry, land for the construction of roads, railways and airports as well as other general state needs.

⁶ Appropriation is obtaining of the property ownership right over assets that are socially-owned, which is an occurrence that used to be present to a certain scope. O. Stanković- M. Orlić, *Stvarno pravo*, Beograd ,1986, 186 (*The Real Property Law*)

2.3. The legal status of the social property in the RBiH as the root of the problem in resolving the issue of the state-owned property

The transition from socialism into capitalism in BiH started in 1990, under the condition of huge political instability and unpleasant political events in Yugoslavia. The long-term period of socialist self-management system of economy, planned economy organised through the organisations of associated labour (SOUR – complex organisation of associated labour, RO – labour organisation, OOUR – basic organisation of associated labour) defined by the Law on Associated Labour (the so-called LAL or ZUR, in the original), inherent to the former socialist systems, was followed by a change of institutions, which were mainly reflected in a unique effort to transform the state or social property as well as to adjust it to the market relations, in order to privatise the state capital. In terms of definitions, transition includes the process of transfer from the model of socialist non-market economy to the so-called market economy model, i.e. from the state (administrative) regulation to the self-regulation of business flows, with a market mechanism.⁷ With the declarative transition from the planned to market economy, the legal regime of social ownership proved to be dysfunctional and it has become a limiting factor in the development of economy, which was an inevitable consequence of post-transition movements of the socialist block countries. The state capital, represented in the banking and economic sectors, could not have responded to the market needs, which is why it was necessary to undertake urgent measures on the privatisation of these two very significant segments of economy. Privatisation of the state capital was done according to the territorial principle,⁸ based on which the privatisation agencies were formed at an entity level,⁹ while the very question of resolving the state-owned property in BiH has not been regulated in a normative way until today. There was a legal presumption that, if BiH is a successor of the former SFRY, it is automatically the only title holder, which is the only just solution if the international conventions and agreements are adhered to, for they have a supranational character¹⁰. However, the events in these areas have not only stopped this process, but also opened many other questions of the way of resolving the transition in the post-communist systems of the former Yugoslavia, for which it turned out that they present a very difficult process.

By declaration of independence, the RBiH has continued the state and legal continuity, as a legal successor of the SFRY, i.e. of the SRBiH. Precisely this will be a decisive momentum for the preservation of the territorial sovereignty and independence.¹¹ By declaration of independence,

⁷ K. I. Begić, *Ekonomska politika*, Studentska štamparija Univerziteta Sarajevo, Sarajevo 1998. 172. (*Economic Politics*)

⁸ N. Čučković, “Privatizacija u Srednjoj i Istočnoj Europi“, *Časopis za opća društvena pitanja*, 1993, 139-148. (*Privatisation in the Central and Eastern Europe*).

⁹ Competence for privatisation of the state-owned capital in enterprises was given to the privatisation agencies of the entities, the FBiH Privatisation Agency and RS Privatisation Agency.

¹⁰ Bosnia and Herzegovina, as a signatory of international conventions, treaties and agreements, has an obligation to harmonise the domestic positive legislation with the international one, which is of an imperative legal power (of an imperative character). The European Convention for the Protection of Human Rights and Fundamental Freedoms, the Dayton Peace Accords, the Agreement on Succession Issues of the Former SFRY are only some of significance for the state-owned property of Bosnia and Herzegovina.

¹¹ The RBiH, as a sovereign, independent and entire state, was first recognised by Bulgaria on 15 January 1992 and the European Community on 6 April 1992, when the aggression onto it officially started. The neighbouring Croatia and the USA have recognised the RBiH on 7 April 1992. Since then, BiH has been recognised by more than 130

the social property of the SR of BiH, according to the succession rights, has come into the ownership of the internationally recognised state of the RBiH, which was the only legitimate holder of the title over the state-owned property.¹² The lack of legal regulations *lex specialis*, which should have legally protect the state-owned property, will be a problem for finding a way to resolve the legal status of the state-owned property. The very act of international legal recognition implied, at the same time, that the state does have an absolute legal jurisdiction over the territory belonging to it, i.e. the time since when the state-owned property is related to BiH is the day of declaration of independence, which was, at the time, confirmed by the High Representative in his report on the inventory of the state-owned property. The international legal recognition of independence, that is, the conclusion of the dissolution of Yugoslavia in all the republics, implied a continuation of the statehood of the successor states, or more precisely, in terms of the property rights, these were succession rights and obligations between the predecessor state and its successor state, as an extension of continuity. There was no defined plan for management of social property, because this area, due to the very transformation from one management model to another model, which was contrary to the ideology of understanding of social ownership, was in itself a novelty, whereby the authority bodies were unable to do anything more, taking into account the other problems that burdened the then government. Protection of social property was partially done by the Law on Sale of the Immovable Assets, which was amended by the provision prohibiting sale of certain real estates in the social ownership.¹³ The purpose of the legal change is in the protection from alienation of real estates that have moved into the state, that is, social ownership on the basis of certain laws, which were used to implement nationalisation or deprivation of private ownership, which should have been the subject of restitution.¹⁴

2.4. Analysis of the transformation of the social property into the state-owned property

The very way of resolving the legal status of the social property asks for listing of categories of the property goods, which are comprised by the social ownership. Within the limits of legislation, the property right is the widest right of holding, usage and disposal of an asset, which can be expressed towards all the third parties.¹⁵ The process of transformation of the social ownership into the private one is implemented by the state, as a general holder of the social ownership competent for transformation, above all, for adoption of the laws in this area. According to the Law on Transformation of the Social Property¹⁶ (adopted by the Parliament of

countries, out of which 44 Arabian-Islamic countries, with whom BiH has maintained full diplomatic relations, while it has received a full-fledged membership in the UN on 22 May 1992.

A.Muminović, *Od dislocije Jugoslavije do međunarodnog priznanja BiH*, <http://www.bljesak.info/content/view/19982/224/> (17. 01. 2014.). (*From the Dissolution of Yugoslavia to the International Recognition of BiH*).

¹² Prema čl.1. stav 1. Ustava Bosne i Hercegovine, koji glasi: “RBiH, čije je zvanično ime od sada “BiH“, nastavlja svoje pravno postojanje po međunarodnom pravu kao država, sa unutrašnjom strukturom modificiranom ovim Ustavom i postojećim međunarodno priznatim granicama

¹³ M. Povlakić, *Transformacija stvarnog prava u BiH*, Pravni fakultet Univerziteta u Sarajevu, Sarajevo 2009.35. (*Transformation of the Real Property Law in BiH*).

¹⁴ *Ibid*

¹⁵ O. Stanković - M. Orlić, *Stvarno pravo*, Beograd 1986. 88. (*The Real Property Law*)

¹⁶ Article 1, paragraph 1 to 5 of the Law on Transformation of Social Property, The Official Gazette of the RBiH No. 33/94.

the RBiH), it was established that BiH has become the holder of the ownership right over the socially-owned property, however, no precise formulation was used to define which property rights can be the subject of the socially-owned property. Only some parts of property were mentioned, over which there was an explicit prohibition of the right of disposal to the Federation of BiH.

Unlike the Republic of BiH, for example, the assets in ownership of the Republic of Serbia, whose title holder it is, are protected by the law stating that the property rights can be the subject of the state ownership of the Republic of Serbia.¹⁷ The change of ownership was implemented by the transformation of the socio-legal persons into the title-legal entities, i.e. the transformation of the real rights to property (right in rem) in the social ownership into the right of ownership of their authorised parties or the right of ownership of the state of BiH, its entities of the RS, BiH and FBiH – the units of local self-governance of the cantons and municipalities, but also with an obligation to implement the restitution and denationalization to the earlier owners of property of the aforementioned levels of government.

Booking of the state-owned property is an imperative for BiH or an extension of continuity of the state over the property, which belongs to it in accordance with a modified constitutional structure. If the Constitution guarantees the continuity of BiH, the Constitution is a guarantor of the continuity of the state-owned property, otherwise, we have a fiction of statehood on paper, which is de facto, but not de jure. The basic legal effect of registration of the real rights (right in rem) over real estates, the obligatory rights over real estates, personal relations of the holders of those rights, that is, the legal facts, is the publication of certain personal relations providing for an external visibility to those rights, pointing out or affecting the legal status of the real estates and possibility of disposal of the rights over the real estates.

2.5. Analysis of the status of the state-owned property of Bosnia and Herzegovina – the state ownership

Every politically-organised society is manifested through the existence of state, resulting in the natural right of the state to own property and have it at its disposal. The problem of determination of the title holder of the state ownership of the former SFRY presents one of the rudimentary questions of a political rather than a legal character for BiH. The property, which was recorded in the SFRY as being in social ownership has become, after the dissolution, the ownership of the successor states, which territory the property was located on. As one of the ways, the derivative acquisition appears when somebody “obtains their right from the right of his/her predecessor”, while the original acquisition is when the owner “does not obtain his/her right from the predecessor’s rights but from other legal facts”.¹⁸ “His/her right is originated, as it is based on the original, independent legal facts, rather than those which the right of the previous owner is based on”.¹⁹

¹⁷ The Law on Public Property – LPP, RS, The Official Gazette of the RS, No.72/11

¹⁸ O. Stanković – M. Orlić, *Stvarno pravo*, Beograd 1986.godine, 194-195. P. Klarić - M. Vedriš, *Građansko pravo*, Narodne novine, Zagreb 1996, 171. (*The Real Property Law*)

¹⁹ O. Stanković - M. Orlić, *Stvarno pravo*, Beograd 1986. 195. (*The Real Property Law*)

Derivative ways of acquiring the state-owned property of BiH, as the successor state, is based on the right of its predecessor, which is, in this case, the SR of BiH or in other words – an extension of continuity of statehood also implies the continuity of property and property rights. The state, as a legal successor, has an obligation to define the status of the state-owned property in accordance with its modified Constitutional structure, which is confirmed only through the right of succession at an international level.

The state signatories of the Dayton Peace Accords are, at the same time, guarantors of the state-owned property, meaning that, in addition to the Agreement on Succession Issues, another legal act of an international character is in effect. The internal state organisation of BiH, occurring after the signing of the Dayton Peace Accords²⁰, the state of BiH consists of the two entities, it has its competencies and it recognises the continuity between the SR of BiH and BiH.²¹

Separation of the state capital in enterprises and other state-owned property that had been exempt from the legal transactions of property was performed by the framework law on privatisation of enterprises and banks in BiH.²² The unresolved legal status of the state-owned property has created a legal vacuum for possible abuse and unauthorised disposal of property in the state ownership, which is why it is necessary to adopt regulations for putting this property under legal protection.

Resolution of similar occurrences of abuse of the state-owned property was prevented by the imposition of the Law on Temporary Prohibition of Disposal of State-owned property of Bosnia and Herzegovina, which was imposed by the High Representative for BiH.²³ In the lack of adequate legal solutions with regards to the state-owned property, there was an attempt to partially resolve this problem by establishing a State-owned property Commission²⁴ at the level of BiH, whose primary goal is, above all, to develop the criteria for establishing the state-owned property and prepare the draft law on state-owned property.

A wide area of the state-owned property without good-quality protection mechanisms leaves room for possible abuse and unauthorised disposal and management of the state-owned property, which additionally aggravates the bad reputation of the state at an international level. The state-owned property, regardless of the ownership right title holder over that property, presents the property of all the citizens and it makes a very significant resource of the state, and any further perspectives of BiH will largely depend on the very way of resolving this issue. The reasons behind a confusing status of the state-owned property are a reflection of the lack of political will

²⁰ The Dayton Agreement, formally titled “The General Framework Agreement for Peace in BiH” was agreed in Dayton on 25 November 1995 and it was signed on 14 December 1995 in Paris.

²¹ 56) See more in Steiner-Ademović, Constitution of Bosnia and Herzegovina - commentary, Foundation Konrad Adenauer e.v. program pravna država/Jugoistočna Evropa Sarajevo, 2010, 100 i dalje.

²² The Official Gazette of BiH, No. 14/98, according to this law, the competence for privatisation of the state capital in enterprises and banks was transferred to the entities, with the proceeds from the privatisation also belonging to them. In addition to the state capital in enterprises, the privatisation has also included the state-owned apartments, i.e. the constructed construction land.

²³ The Law on Temporary Prohibition of Disposal of the State-owned property, The Official Gazette of BiH, br.18/05, 29/06, 85/06,32/07, 41/07, 74/07, 99/07 and 58/08.

²⁴ Commission for the State-owned property, founded on the basis of Decision of the Council of Ministers of BiH, No. 305/04 and published in The Official Gazette of BiH, No.10/05, 18/05, 69/05, 70/05.

of the entity representatives to submit to the state what belongs to it. It is indisputable that BiH, as a state, must possess the property that is located throughout its territory, which is necessary for the functioning of the state institutions and meeting of the international obligations and treaties the state has signed. The primacy of the state ownership is inherent in BiH, as it obtains the right to property from the rights of its predecessor, which transfers the title to its successor with all the burdens and limitations.²⁵

The question of ownership over the state-owned property is, in principle, legally formulated, as the municipality, cantons and entities do make a part of one state, which is an international legal entity. Assets, in the ownership of the state and other public law entities, are dealt with applying the same rules as are applied for the assets of physical and legal persons under the private law, unless the law sets it out differently,²⁶ which makes it a good basis for the protection of state-owned property. In addition to that, the right of the state of BiH, to regulate the question of the state-owned property results also from the provision of Article IV/4.e of the BiH Constitution. Namely, having taken into account all the previous conclusions, primarily for the state of BiH to have the right to continue regulating the state-owned property, i.e. that it is the state-owned property title holder as well as that the provisions of Article IV/4.e) of the BiH Constitution set out the competence of the Parliamentary Assembly in the other questions that are necessary for the implementation of the state duties, with the state-owned property reflecting the statehood, sovereignty and territorial integrity of BiH, it is indisputable that the aforementioned provision provides authorisation to the state of BiH, that is, to the Parliamentary Assembly to regulate the question of state-owned property. According to that, the is the case of exclusive competence of BiH, resulting from Articles I/1, III/3.b) and IV/4.e of the BiH Constitution.²⁷

Having taken into account all the historical circumstances, analysing the legal and historical roots related to the state-owned property problems, analysing the legal continuity of the social property, analysing the legal status of the state-owned property in the R BiH, as well as analysing the transformation of the social ownership over property into the state ownership and analysing the status of the state-owned property of BiH, we can draw an unambiguous conclusion that the State of Bosnia and Herzegovina is the only and exclusive owner of the state-owned property of the SR of Bosnia and Herzegovina. Therefore, the legal continuity of ownership of the property of Bosnia and Herzegovina is unquestionable and, as such, it is not a limiting factor for establishment of the Economic Development Fund of Bosnia and Herzegovina.

3. Analysis of the activities related to addressing the issue of Bosnia and Herzegovina state-owned property as a factor for establishing the Economic Development Fund of Bosnia and Herzegovina

²⁵ O. Stanković - M. Orlić, *Stvarno pravo*, Beograd 1986. 197. (*The Real Property Law*)

²⁶ T. Josipović, "Stvari u vlasništvu države i drugih osoba javnog prava (javno vlasništvo)", Zbornik Pravnog fakulteta Sveučilišta u Rijeci (Zb. Pf. Sveuč. Rij.), Rijeka 22/2001.1. (*Assets in the Ownership of the State and Other Entities with Public Rights (Public Ownership)*).

²⁷ Decision of the Constitutional Court of BiH, No. U-1/11, of 13 July 2012.

3.1. Analysis of legal-formal actions taken to date in addressing the state-owned property issues

Since the disintegration of Yugoslavia in 1992, a multitude of laws and decisions regulating either the nature of property in BiH or the privatisation of public assets were adopted²⁸. Legislation adopted by the BiH authorities following the entry into force of the Dayton Peace Agreement²⁹ only partially resolved the respective ownership rights of the State and other levels of Government in Bosnia and Herzegovina over the pre-existing public property – including also the property held by former Federal level SFRY bodies and the former Socialist Republic of Bosnia and Herzegovina (SRBiH).³⁰ The process was evolving into a number of directions and in several phases, through various institutional forms stemming from legal norms that have not fully met social interests of all citizens in BiH. The basis is in the signing of the Succession Agreement, establishment of the State-owned property Commission and forming of the State-owned property Inventory Team.

A. The Agreement on Succession Issues

The **Succession Agreement** identified and resolved the issues of rights, assets and liabilities between SFRY successor states. This included a portion of real property assigned by the treaty to Bosnia and Herzegovina. With the signing of the Agreement on Succession Issues of the former SFRY in 2001 and with the treaty's entry into force in June 2004, the authorities of BiH renewed their efforts to comprehensively settle the ownership issues related to pre-existing public property. However, what emerged from the settlement of BiH property interests vis-à-vis other SFRY successor states was an internal dispute with respect to as to the ownership distribution of these assets between the State and other levels of government. In this context, on September 2004, the Peace Implementation Council Steering Board called upon the authorities of BiH to find a "lasting solution" to "the issue of state-owned property" in BiH.³¹

B. State-owned property commission

On 16 December 2004, the BiH Council of Ministers established by a Decision a Commission for state-owned property (Commission)³² tasked to “develop criteria for the identification and distribution of state-owned property between Bosnia and Herzegovina, the Entities and the Brčko

²⁸ See the *Decree on Taking-Over Assets of the Former Socialist Federal republic of Yugoslavia by the Republic of Bosnia and Herzegovina*, 15 June 1992, no. 1199/92 which provides that the socially owned assets of the former SFRY which were used by the federal bodies and organizations and by the former JNA shall become the property of the Republic of Bosnia and Herzegovina (see Article 1).

²⁹ General Framework Agreement for Peace in Bosnia and Herzegovina.

³⁰ See the *Framework Law on Privatisation of Enterprises and Banks in Bosnia and Herzegovina* („OG BiH“, no. 19/99, 2 August 1999); see also the *Law on the Purpose and Usage of the Portion of Property received by Bosnia and Herzegovina under the Succession Agreement* („OG BiH“, no. 11/02, 30 May 2002).

³¹ See the Declaration of the Peace Implementation Council Steering Board adopted at the level of Political Directors in Sarajevo on 24 September 2004.

³² Decision of the BiH Council of Ministers on “*Establishment of the Commission for state-owned property for the Identification and Distribution of State-owned property, the Specification of Rights and Obligations of Bosnia and Herzegovina, the Entities and the Brčko District of Bosnia-Herzegovina in the Management of State-owned property*,” Official Gazette of Bosnia and Herzegovina, No. 10/05.

District of BiH, and for the adoption of regulations on the management of that property, as well as for proposing draft legislation on the rights of ownership and management of state-owned property.”³³

For the purposes of the Commission’s work, the Decision generally defines state-owned property as movable and immovable property that belongs to the state of BiH pursuant to the International Agreement on Succession Issues, movable and immovable property over which the Socialist Republic of Bosnia and Herzegovina (SRBiH) and any of its bodies held the right of disposal or management before 31 December 1991, and property deemed subject to apportionment following an analysis of land registries and cadastres. Moreover, for the purposes of identifying state-owned property owned by the Institutions of BiH, the Entities and Brčko District of BiH, the Decision identifies property as falling within the above categories “...regardless of whether, on the day of adoption of this Decision, the said property is considered to be owned or possessed by, or is registered as the property of any level of government or public organization in Bosnia and Herzegovina and regardless of whether the said property has, since the cessation of the existence of the Socialist Federal Republic of Yugoslavia, been disposed of in any manner or form by any legal person or body either private or public.”³⁴

On 18 March 2005, the High Representative enacted laws at State and Entity level temporarily prohibiting the transfer of state-owned property to ensure that the delays in developing a sustainable settlement of state-owned property ownership issues did not result in the sale and/or encumbrance of these public assets. The laws temporarily prohibiting transfers of state-owned property were accompanied by a separate decision of the High Representative supplementing the Commission’s mandate to include the authority to exempt certain State-owned property from the prohibition on transfers.

Notwithstanding the Commission’s mandate to propose a broad range of legislative and regulatory solutions, including through an analysis of cadastre, land registry records and other public registries, the Commission did not initiate an inventory of State-owned property. Instead, the Commission’s efforts – since its formation until today - have focused primarily on the development of criteria for ownership over the State-owned property of BiH, entities and the Brčko District of BiH, the development of draft legislation for the implementation of the criteria, and the resolution of requests for exemptions from the prohibition on State-owned property transfers. Although the Commission made little progress in developing unified draft legislation to settle State-owned property ownership issues, its protracted efforts did highlight the need for an inventory and resulted in the establishment of a Working Group to compile it. After failing to reach agreement on either the criteria for apportioning state-owned property or legislation to implement it during its original mandate, new members were appointed on 19 July 2007.

On 23 October 2007, the re-constituted Commission adopted compromise criteria.³⁵ Despite its adoption, for more than a year the Commission remained deeply divided and was unable to

³³ Ibid., Article 1.

³⁴ Ibid. Article 2 (b) and (c).

³⁵ See “*Proposed Criteria for Establishment and Distribution of State-owned property*,” adopted by the SPC’s Sub-Working Group on 23 October 2007 and considered at its 5th plenary session on 23 October 2007. Under this compromise criteria, adopted by a sub-commission and considered at the Commission’s 5th plenary session, state level institutions would own the entire foreign State-owned property and the portion of the domestic State-owned property that is either used by Institutions of BiH or is

translate the compromise criteria into draft legislation. It referred many disputed issues, initially in 2007, to the Council of Ministers, and subsequently in November 2008, to parallel discussions between political parties' leaders.³⁶ However, neither the Council of Ministers nor the political parties' leaders reached agreement on the practical meaning of the compromise criteria or mechanisms by which the Commission should translate it into draft legislation. However, what emerged from these efforts was a broad agreement among stakeholders on the need to compile an inventory of state-owned property as a core element of a sustainable state-owned property issue settlement.

Complexity of the problem was demonstrated in the very course of the Commission's work, as it did not manage to come up with a solution acceptable to all its members and, therefore, there was not much use of this Commission's activity anyway. In addition to this main task, due to which the Commission was established in the first place, the second purpose was to consider and exempt from prohibition of disposal of certain state-owned assets, that is, apportioning of state-owned property for the needs of State importance. This law was prolonged on several occasions with the same view of protecting state-owned property from unauthorised disposal by third parties. The latest prohibition deadline was precisely established and was prolonged until 30 June 2008. The Law on Temporary Prohibition of Disposal of State-owned property was amended on 25 June 2008 for the eighth time and the deadline was extended until "an acceptable and sustainable solution of the State-owned property distribution between the State of BiH and other levels of Government is confirmed by the Peace Implementation Council Steering Board or until decided otherwise by the High Representative", thus exempting the state-owned property from trade and making it subject of protection until a legal solution is to be adopted at the level of BiH.

The procedure of exempting from prohibition on the disposal of state-owned property was entrusted upon the BiH Council of Ministers' Commission that would, as it turned out, have a counterproductive effect because the then authorities, unable to exercise certain rights related to disposal of state-owned land and as a way to circumvent the legal effect of the prohibition, used the Commission that was considering submitted requests, which was evidently more politically instructed activity rather than related to a sovereign country's interests.

The detrimental effect of the BiH state property Commission culminated in an attempt to adopt a Decision on exemption from prohibition on the disposal of nearly 11 hectares of state-owned land, for the needs of RS Government in the construction of a memorial complex on Zlatište, which resulted in fierce criticism by the High Representative who issued a warning that "he was determined to examine the issue in more detail" and announced a possibility of amending the OHR decision on state-owned property in order to protect the interests of the State until the Parliament of BiH passed a decision in line with the position of the Constitutional Court of BiH.

C. Inventory Working Group

necessary for the fulfilment of their competences. All other immovable State-owned property would be owned by either one of the entities or Brčko District, depending on the location of the specific property

³⁶ See "Agreement Reached by the Political party Leaders of SNSD, SDA and HDZ" and the Annex thereto respectively reached on 8 November and 22 December 2008.

On 9 April 2009, the Council of Ministers adopted the *Decision Establishing the Working Group for Property Inventory* (IWG Decision). The decision tasked the Working Group, comprised of experts drawn from State, Entity and Brčko District institutions, to prepare an inventory with the technical support of the General Secretariat of the Council of Ministers. The Decision provides that the inventory “includes the property referred to in Article 2 of the Decision on Establishing the Commission for State-owned property,” and further prescribes a six-month period marking 30 September 2009 as the deadline for the Working Group to compile the inventory. The BiH Council of Ministers confirmed the nominations to the Working Group on 29 April 2009, and convened its inaugural session on 19 May 2009. Thereafter, the Working Group met six (6) times, each time considering proposals on the mechanisms by which inventory would be conducted. The Working Group informally agreed that it lacked sufficient resources to conduct an inventory through their own direct review of land registers and cadastres and that therefore the inventory data should be compiled through direct written requests to land registries and cadastres throughout the country. However, members differed markedly on the form and scope of the data that should be included in requests to public property registers. By its last regular session, which was held on 7 July 2009, the Working Group had proved unable to reach consensus on a single proposal with the effect of initiating the process of compiling an inventory of state-owned property.

Recognizing the absence of any decision by the Working Group to initiate the process of compiling inventory data, on 12 August 2009 the High Representative wrote to the Chairman of the Council of Ministers, the Entity Prime Ministers, and the Mayor of Brčko District of BiH informing them of his intention to provide “technical assistance in compiling a State-owned property Inventory and auditing of the results.” The High Representative took this initiative in response to requests of the Political Directors and the Steering Board Ambassadors of the Peace Implementation Council for such assistance, sent respectively on 30 June³⁷ and 7 August 2009.³⁸ He indicated that his Office would compile data on immovable State-owned property falling within the scope of assets defined by the Council of Minister’s decision establishing the State-owned property Commission and through specialized staff that would be recruited to gather data from cadastres, land registries and other public registers, and that upon completion, the results would be delivered to the BiH, Entity and Brčko District governments. He further indicated that the results of the completed inventory would serve as the basis of continued discussions towards a sustainable settlement of state-owned property ownership without prejudice as to how such assets will be apportioned between the State and other levels of government.

On 13 August 2009, the High Representative wrote to all cadastre offices and land registers requesting that each office begin reviewing the public records maintained by their offices, to begin preparing specific data on those properties falling within the scope of Article 2 of the Decision establishing the State-owned property Commission, and to return all appropriate forms and documentation by 15 September 2009. In parallel, the Office of the High Representative

³⁷ See the Communiqué of the peace Implementation Council’s Steering Board of 30 June 2009 at http://www.ohr.int/pic/default.asp?content_id=43665

³⁸ See the statement by the Ambassadors of the Peace Implementation Council’s Steering Board of 7 August 2009 at: http://www.ohr.int/pic/default.asp?content_id=43799

began its recruitment of specialized staff to compile and process the inventory data. The governments of Germany, Italy, Sweden and United States of America provided donor support for OHR's recruitment of 20 consultants with expertise in real property rights and their registration in public registers, geodetic affairs, property-legal relations, and project management. OHR completed recruitment of inventory project consultants on 14 September and began compiling data under the auspices of the Department of Legal Affairs and in cooperation with cadastre offices, land registry offices and with other institutions maintaining public property records.

The High Representative's *Decision On the Inventory of State-owned property In and Outside Bosnia and Herzegovina* of 11 September 2009 was meant to provide legal and operational framework for conducting the inventory under OHR auspices. The inventory was compiled over the course of approximately 13 weeks. The results of the exercise did not yield expected outcomes. According to assessments of numerous analysts, they just augmented the problems further on.

By analysing the legal-formal actions undertaken to date with respect to the settlement of state-owned property issues a conclusion may be drawn that the process was evolving through a number of directions and in several phases, through different legal and institutional forms and it did not meet socio-economic interests of all citizens in Bosnia and Herzegovina. The common feature for the signing of Succession Agreement, establishment of the State-owned property Commission and the State-owned property Inventory Team is creation of economic-legal assumptions for the process of division and fragmentation of state-owned property. The said actions excluded preconditions for the state-owned property to be placed in function of socio-economic development of all citizens in our country. The act of dividing and fragmenting the state-owned property leads inevitably towards its devastation and eventually its destruction. Causes of the problems related to resolving the issue of state-owned property in Bosnia and Herzegovina should be looked for in the aforementioned reasons.

3.2. Analysis of the results achieved through Bosnia and Herzegovina's inheritance of the former SFRY assets

The Agreement on Succession Issues of former SFRY (Agreement), which was concluded on 29 June 2001 in Vienna, entered into force on 2 June 2004 upon being ratified by all successor States. An integral part of the Agreement is also Annex C that regulates the issues of distribution of financial assets and liabilities of former SFRY. In addition to that, another integral part of the Agreement, which is related to financial part, is Annex – Assets at the Bank for International Settlements (BIS).

For the purposes of this analysis we will present the state of gold reserve and a portion of assets that Bosnia and Herzegovina inherited as part of common assets of former SFRY, which it collected over the past period of time. The focus of the analysis is on the amount of financial resources collected.

3.2.1. Results in the distribution of monetary gold

Annex C of the Agreement regulates the issue of distribution of financial claims against the former SFRY, comprising foreign financial claims (including cash, gold and other precious metals, deposit accounts and securities) that former SFRY or National Bank of Yugoslavia held directly or with foreign banks, Yugoslav joint venture banks and agencies of Yugoslav banks abroad.

When it comes to monetary gold, the issue is about distribution of gold held with the **Bank for International Settlements (BIS)** and also with the Credit Swiss Zurich and Banque de France Paris.

a. Assets held with the Bank for International Settlements (BIS)

Distribution of assets held with the Bank for International Settlements was carried out before entry into force of the Agreement. Bosnia and Herzegovina received 13,2% of assets in the distribution of assets held with the Bank for International Settlements, and according to that basis, it received:

- money from selling gold **195.543,2 Oz x 273,18 USD = 53,419,095.30 USD**
- cash, shares, dividend **17,495,165.30 USD**

The purpose and usage of the assets were provided for by the Law on the Purpose and Usage of the Part of Property Received by Bosnia and Herzegovina under the Succession Agreement (Official Gazette of BiH, no. 11/02). A total amount of BAM 156.011.373,15 was distributed under the Law. Implementation of this Annex is fully completed.

b. Monetary gold held with the Credit Swiss Zurich and Banque de France Paris.

The Committee for the Distribution of the Financial Assets and Liabilities of the former SFRY adopted a Resolution No. 19 on the distribution of monetary gold of the former SFRY National Bank which was deposited at Credit Swiss Zurich and Banque de France Paris. Based on the distribution, Bosnia and Herzegovina obtained the amount of **42.352,167 Oz** which, in accordance with the Agreement, is 15,5%. The gold that belonged to Bosnia and Herzegovina was ceded to the Central Bank of BiH for the amount of **USD 38,843,289.96**. Distribution of monetary gold is fully implemented.

3.2.2. Results of distribution of financial assets and monetary gold from foreign exchange accounts in foreign commercial banks

- U.S. commercial banks

Foreign assets of the former SFRY National Bank, which were held with U.S. commercial banks, were distributed in line with the initiative of the U.S. Administration and, based on that, the amount of **USD 36,837,127.56** was paid to the account of the Central bank of Bosnia and Herzegovina as of 30 April 2003. The distribution of assets held with U.S. banks is fully

completed. The aforementioned amount included also the assets of Vojni servis (Military Service) of the National Bank of the former SFRY, which were transferred to the defence industry companies in BiH, in the amount of **USD 5,992,909.66**.

-Other commercial banks

Following a hearing of „Credit Lyonnais/Credit Agricole“ held on 9 April 2014 in Paris, in relation to the distribution of financial assets of former SFRY in the amount of EUR 24,4 mil, Bosnia and Herzegovina received 15,5% of the principal and the corresponding interests' amount. The Ministry of Finance and Treasury of Bosnia and Herzegovina was informed by the BiH Central Bank that an account with Deutsche Bank AG Frankfurt/Main was approved in the amounts of: **EUR 3,390,911.21** and **EUR 980,737.38**.

-Foreign currency accounts with mixed banks

AY Bank London is one of the joint mixed banks in which the National Bank of former SFRY had deposits that are the subject of distribution and the estimated amount of deposits, which was to be the subject to distribution, was **USD 35,533,540.00**. In accordance with the Agreement, the corresponding assets with the bank were already being allocated to the account of Bosnia and Herzegovina. As of 1 November 2013, the amount of **£ 2,762,169.31** was allocated.

-Assets based on the former SFRY's membership in the Inter-American Development Bank

Assets were distributed based on the membership of former SFRY in the Inter-American Development Bank and the amount of **USD 863,000.00** was paid at the account of the Central bank of Bosnia and Herzegovina representing the amount of assets that belong to BiH.

-Assets of Yugoimport SDPR J.P.

Successor states initiated a proceedings for before the District Court of S.D. New York with respect to the distribution of assets of Yugoimport SDPR J.P that had been blocked with the **Bank of New York** in the amount of USD 2,551,785.37. Following the completion of the proceedings Bosnia and Herzegovina received the amount of **USD 391,437.85**.

-Assets of the Yugoslav Bank for International Economic Cooperation (JUBMES)

Bosnia and Herzegovina is now the **owner of 10.352** shares of JUBMES Banka a.d. Beograd, which is **3.59%** of ownership in the overall 100% share capital of the bank. According to the Belgrade Stock Exchange, the market value of the shares early in November 2014 amounted to approximately **EUR 350,000.00**.

-Mexico clearing debt assets

Upon an order issued by the Banco de Mexico, and based on the Resolution of the Committee for the Distribution of the Financial Assets and Liabilities of the former SFRY, the amount of **USD**

377.61, received based on the distribution of the clearing credit balance of the former SFRY and Mexico, was paid to the account of Central bank of Bosnia and Herzegovina.

-Clearing debt of Albania

The clearing debt of Albania to the former Yugoslavia was agreed in the amount of **20,768,803.80 Clearing Dollars**. It was agreed to convert the aforementioned amount with the rate of exchange of 1 clearing dollar = 1 USD. Given the calculation of interests for the period Bosnia and Herzegovina is entitled to USD 3,696,189.56. The regular interest payable after 30 September 2009 shall be calculated from the date of signing a bilateral agreement between every party and the Republic of Albania, which was signed on 12 August 2011. Both parties agreed that the debt of the Republic of Albania to Bosnia and Herzegovina amounts to USD 3,696,189.56. Based on this, Albania paid the entire amount of USD 3,770,948.54.

Table -1. *Financial assets collected from international institutions*³⁹

Financial institution	Currency	Amount	Year
1. Bank for International Settlements (BIS)	US\$	60,914,260.60	2002
- money from selling gold	US\$	53,419,095.30	2002
- cash, shares, dividend	US\$	17,495,165.30	2002
2. Monetary gold Credit Swiss Zurich and Banque de France Paris.	US\$	38,843,289.96	2002
3. US commercial banks	US\$	36,837,127.56	2003
4. Other commercial banks	EUR	4,371,684.59	2014
5. Mixed bank AY Bank London	£ .	2,762,169.31	2013
6. Inter-American Development Bank	US\$	863,000.00	2007
7. Assets of Yugoimport SDPR J.P	US\$	391,437.85	2014
8. Yugoslav Bank for International Economic Cooperation (JUBMES)	EUR	350,000.00	
9. Mexico clearing debt assets	USD	377,61	
10. Clearing debt of Albania	USD	3,770,948.54	2112- 214
Total BAM paid		257,286,611.40	

The Table provides an overview of the quantity and structure of financial assets that Bosnia and Herzegovina collected to date. The issue is about cca BAM 250 million. The total amount was distributed onto budget accounts of state institutions and ended up over there in public expenditure channels.

The main feature of this process is that the assets, that is, the foreign currency, which was acquired by previous generations, was spent through budget, which resulted in irrational

³⁹ Source: Ministry of Finance and Treasury of BiH

spending, that is, diminishing of state-owned assets. Therefore, the main characteristics of the state-owned assets management to date is devastation and diminishment of state-owned assets. It would be logical to invest the collected assets in the development and expansion of material-economic foundations of the entire society. In that way the assets would have remained in the assets balance sheet of the state of Bosnia and Herzegovina. Facts given indicate the need to change the current method of managing the state-owned assets, that is, to establish the Economic Development Fund of Bosnia and Herzegovina.

4. Experiences of other countries with the state-owned property management system

Here we would like to present the manner in which this field is regulated in the neighbouring countries (Serbia and Montenegro) and a number of EU Member States (Italy, Slovenia, Germany, Croatia, the Netherlands, Austria, Portugal, Sweden, United Kingdom and Bulgaria)

Italy

The state of Italy disposes of 30 thousand property units i.e. 20,000 buildings and 10,000 land units. The numbers were confirmed by an inventory conducted six years ago by the Italian Public Property Agency, the institution managing the entire state-owned property in the country. The Agency points out frequently that the property of the state is the property of all Italians, that it is a valuable source of income with huge developmental potential and that, as such, it has a significant influence on the state economy as a whole. The process of transferring the rights to use a state-owned property onto local authorities – municipalities is underway in Italy. According to the current regulations, the local authorities will be responsible for the property given to them to use.

Slovenia

In Slovenia, tangible and financial assets are owned by the State. The Capital Investments Management Agency is in charge of shares management while the movable and immovable property owned by the Republic is currently managed by the Ministry of Public Administration. Management of the state-owned tangible assets was extremely decentralised until two years ago. However, the new Law on Tangible Assets of the State and Self-Governing Local Communities from 2010 provides for centralisation of the management of a larger share of immovable property owned by the State. This will be conducted solely by one management authority – Public Fund for Real Property of Slovenia established in 2011. The process of transferring the property that the institutions is going to manage is underway as well as the processes of organising the staff that used to carry out state-owned property management tasks in various ministries and government bodies and of ensuring funds necessary for the Fund's activities. The Law provides that managers of the tangible state-owned property shall be the state and judicial authorities and public law persons, which the Government shall by a decree designate as managers or who were given the rights to manage the tangible property by law, bylaws or a Government's decree on their establishment. It is planned to establish, within two-year period following the establishment of the Fund, the central records on the immovable property owned by the State and other public law persons whose founder is the Republic. Management of the Republic of Slovenia's financial assets is conducted pursuant to the Capital Investments

Management Law from 2010. The public law persons include the State, self-governing local communities, public institute, public economic institute, public agency, public fund and public enterprise (Article 3 of the Law on Tangible Assets of the State and Self-Governing Local Communities).

Germany

Institute for Federal Real Estate manages immovable property owned by the Federal Republic of **Germany**. This centralised institution is under direct control of the state Government and operates within the Ministry of Finance. It has ownership rights over all real estate-owned property as well as other real rights. In 2006, the Real Estate Portfolio was worth around EUR 10 billion. Currently it has over 28,000 buildings, 400,000 hectares of land and about 44,000 apartments. The property under its management is diverse, starting from housing units, industrial and business facilities, military premises, and land used for forestry and agricultural purposes. It also deals with issues such as changing the purpose of the property previously belonging to the Federal and foreign military forces into facilities suitable for civilian use. The Institute has 6,000 employees.

The Netherlands

In the Netherlands, the state disposes of the property, land and buildings in the total amount of about EUR 75 billion. In order to strengthen the position of the state at the real estate market, in October 2001 a Real Estate Council was established in the Netherlands, as a single authority for mutual cooperation of six ministries and nine real estate agencies involved in buying, selling and managing of State-owned property. For the purposes of this Study the most important is the Government Buildings Agency. Its main task is to provide appropriate accommodation for Government ministries and agencies by acquiring and managing buildings and the Agency's remit also includes urban construction, management of monuments, architectural design, etc. The Agency works for all State ministries, and in some circumstances also for third parties such as autonomous administrative authorities. It is the owner of about 2.000 buildings with a combined floor space of seven million square meters. Individual public users conclude with the Agency contracts on real estate-owned property that they use. Annually, the Agency has approximately EUR 500 million and is covering by the amount the maintenance and investment costs.

Austria

In Austria, managing of the property owned by the state was relatively decentralised as the assignment was carried out by a number of Government agencies, one state agency and a number of regional ones. However, the system was centralised in 1992. The State transferred its real estate-owned property entirely onto the State Real Estate Agency that is 100% state owned. The Agency is responsible for the entire state-owned property the value of which amounts to approximately EUR 9 billion and, as a result, it is the most important owner of real estate-owned property in Austria. The Agency rents buildings to Government authorities, carries out reconstruction and new investment projects and sells buildings and land not used by the public sector any more. The Agency has the status of a limited liability company and employs 831 person in various towns across Austria.

Portugal

Majority of state-owned real estate is owned by some ministries and they manage the property. However, there is also a General Directorate for State-owned property operating within the Ministry of Finance and dealing mainly with the investment distribution issues.

Sweden

Since 1993, the state-owned property management process in Sweden has been implemented by six specialised bodies. Before the reform process commenced, the management system was centralised and rested with the Royal Board of Public Building and Planning. The reform was implemented with the aim of abolishing the monopoly of the Board over the care for state-owned property and establishing the obligation for state authorities to take autonomous care of premises they were using. On the other hand, State authorities have the right to rent the premises in accordance with their own needs, from both public and private owners. The described system has become a sort of a market where real estate beneficiary is simply looking for and renting real estate-owned property by himself and pays the related costs from his own budget.

United Kingdom

In the United Kingdom, every department is responsible for management of its real estate.

Croatia

Croatia owns real estate, stocks and shares in public enterprises, and companies, and other assets managed by a specialised institution – Agency for Management of State-Owned Assets. The Agency was established based on the 2010 Law on Management of State-Owned Assets, which regulates in detail all issues related to the state-owned assets. The Law defines setting up of a State-Owned Assets Register, which will be kept by the Agency. The Register has not been set up yet. Entire state-owned assets are currently being entered, and the process should last for three years. The Law specifies that the Strategy and the Plan for management of state-owned assets, and the Report on implementation of the Plan, are the documents based on which state-owned assets in Croatia are managed.

Serbia

In Serbia, management of state-owned assets is regulated by the Constitution, the Law on Public Property, and the Decree on the register and list of immovables and other state-owned assets. State-owned assets, according to the Constitution, include natural riches, goods defined by law to be of general interest, and assets used by the authorities of the Republic of Serbia. This issue has been regulated in more detail by the Law on Public Property, adopted in September 2011. It covers the public property law, but also some other property rights of the Republic of Serbia, the autonomous province, and the local self-governments. State-owned property is managed by the Republic Directorate of Property of Serbia. In addition to its specialised duties, the Directorate also keeps records of state-owned movables and immovables.

Montenegro

The Constitution and the Law on State-Owned Property regulate the management of property owned by the state of Montenegro. The Constitution defines that the Republic Assembly decides on the disposal of the state-owned assets above the value determined by the Law, while the Law on State-Owned Property prescribes that that value is above €150 million. The Assembly makes this decision at the Government's proposal. The Law on State-Owned Property prescribes that the state-owned property consists of the right of state ownership over movables and immovables, money, securities, and other property rights inherent to Montenegro or a local self-government. Assets and other goods owned by the state are used to carry out the functions of Montenegro, local self-governments, state authorities and bodies of local self-governments, and to carry out the activities of public services founded by the state or a local self-government. Those assets and goods can also be used to carry out activities for the purposes of gaining income, that is, profit. State-owned property is managed by the Authority for the Property of Montenegro. Its core activity, in addition to any other work it performs, is to take care that the state-owned property is used for its intended purpose, and to keep a single record and register of state-owned property.

Bulgaria

In Bulgaria, the Constitution defines what makes state-owned property, while the Law on State-owned assets regulates the management and disposal of the assets in a more detailed manner. The state of Bulgaria enjoys exclusive right of ownership over underground resources, beaches and national roads, as well as the waters, forests, and parks of national relevance and over natural and archaeological reserves established under the law. The law also established the state monopoly over railroad traffic, national postal and telecommunication networks, over use of nuclear energy, production of radioactive products, weapons and explosives, and over manufacture of potent toxic substances. The Constitution also defines the areas in which the state holds sovereign rights, and emphasizes that the state uses and manages the entire state-owned property for the benefit of the individual and the society.

In view of the experience and recent trends in the listed countries, we may conclude that the basic characteristic of these processes is centralisation of the system for registration and management of state-owned property and concentration of property by various characteristic in the interest of rationalised use and more efficient management. Also, experience tells us that the state-owned property in the listed countries is being put to use for economic development.

5. Proposal of the model for management of state-owned assets in Bosnia and Herzegovina

5.1. Essential characteristics of the model for management of state-owned assets

Different states have different goals to which they adjust the governing activities in the public sector. Goals and guidelines for management of state-owned assets vary depending on the

political system, historic and cultural environment, size of the state-owned assets portfolio, coverage of the general state-owned property sector, level of democracy, and understanding of the role of public management and state accounting information system.

Analysis of the situation in the field of state-owned assets management during and after the war primarily identified the problem of multiplication of public institutions' competencies for management of various forms of state-owned assets in Bosnia and Herzegovina. Lack of data on use and destruction of state-owner assets result in overlapping of the process and uncoordinated activities with irrational and economically unacceptable actions. Together with lack of records for efficient determination of public resources allocation, it prevents efficient management of public property and thus increases direct and opportunity costs in the BiH public sector.

Using the analysis of the current situation as the basis, there is need to develop and apply a new approach to state-owned property management, whose basic determining factor is to put to use those assets for economic development. Proposal for resolution of the piled up issues envisages an essential change in the way the authorities treat state-owned property. Setting up of the Economic Development Fund would establish a model for integral management of the state-owned assets. Development and application of appropriate mechanisms in the Fund's functioning would create the prerequisites for better management of state-owned assets and would consequently increase the efficiency of the public sector as a whole.

Basis of the proposed model is also establishment of a single, comprehensive, standardised, and centralised register of public property, **in the decentralisation of** information from the Register. The register would contain all relevant data on all forms and attributive features of state-owned property and its related liabilities. Access to information in the register would be granted to administration of the local self-government units and consequently, they would participate in the state-owned property management. Setting up of an integral register of state-owned property would be brought in line with the International Public Sector Accounting Standards. Assets would be organised in classes (groups, manifest forms) and that also determines the manner of recognition of value of some parts of public property in the Register. Physical, financial, legal, and economic characteristics would be defined as the criteria for distinguishing and categorisation of assets. Rational management and realisation of socio-economic net impacts is enabled based on the validation of various ways to utilise certain parts of state-owned assets.

Successful application of the model would require certain statutory modifications and professionalisation of duties relative to the management of state-owned assets. This underlines the position that making changes to the current system of management of state-owned assets in Bosnia and Herzegovina is necessary and worth the effort. The changes would produce more benefits than costs. The application of the proposed model for integrated management of state-owned assets (which means establishment of the Economic Development Fund of Bosnia and Herzegovina) would resolve the mess in the recording, validation and disposal of state-owned assets.

This would enable actual professionalisation of the management of state-owned assets and increase the responsibility of the public management for efficient use of public property. Continued ineffectiveness of the public sector today gives rise to the claim that, when it comes to organisation and management, public and private sector are not essentially different. Such

prevailing opinions arise from the fact that governments, thanks to their budget inflows and institutional power, must fulfil not only public functions, but also the functions of social development. With the new approach, by establishing the Economic Development Fund of Bosnia and Herzegovina, development would be partially taken out of the budgetary framework, thus creating the grounds for managerial approach to development. This move would introduce the criterion of profitability and the principle of good management in the public sector, as well as increase the responsibility of the public management for systemic and efficient management of public resources.

The reform of the management of state-owned assets should be accepted as a long-term, ongoing process. The process has already been completed in many developed countries. The application of the proposed model for integrated management of state-owned assets strongly relies upon professionalisation of the public assets management. Certainly, it cannot be achieved within a short period of time, as it is not simple to combine the opposing interests in the short run – the need for good husbandry/management of state-owned assets, increasing the level of public responsibility for the management of state-owned assets and the need to harmonise various objectives of numerous current administrations and beneficiaries of public assets.

It is indisputable that development and application of the model for integrated management of state-owned assets in Bosnia and Herzegovina is a long-term reform process. It requires a series of institutional and staff modifications and, logically, it will generate certain costs. However, despite a rather long deadline and the costs, the establishment of a new model for the management of state-owned assets is considered justified and it would be beneficial to make an appropriate decision in this regard. The process of the model development and its efficient application in real life takes time. In view of inherited institutional framework and real relations, alternative and interim solutions may be introduced.

Given that the owners of state-owned property are citizens, they act as a sort of investor. Therefore, success in the management of state-owned assets can and should be measured by the level of satisfaction of the needs of citizens, primarily those that are related to local communities. Hence, one should insist on the fundamental criterion of maximum dispersion of the benefits arising from the use of state-owned assets. The Economic Development Fund of Bosnia and Herzegovina, as a financial institution for the management of state-owned assets, controls whether the effects of the management are in accordance with the objectives set.

During the useful life of assets, their attributes change, but each change is updated in the register of assets. In a similar way, when the method of economic use of individual components of public assets has been determined, it does not mean that the manner of use of individual assets cannot be changed if new, more or less favourable, circumstances in the environment arise or if public needs change.

Determining the manner of economic use of state-owned assets should not be interpreted identically for all forms and parts of state-owned assets. Namely, not all assets have to create profit after being put in use. Certain parts of public property may be used for the fulfilment of certain social objectives that are not measurable by money. The use of assets may also be of non-profit nature. Hence the opinion that in the portfolio of manageable state-owned assets, based

already on classification, one could identify those assets that are attributed non-profit usability criteria. Certainly, the portfolio of manageable state-owned assets is diversified, i.e. it contains parts of assets that have been attributed profit criteria and parts of assets that have been attributed non-profit usability criteria. Rational management of all parts of state-owned property should achieve overall measurable and non-measurable net benefits, which will justify the specific intended use.

The model for management of state-owned assets through the Economic Development Fund of Bosnia and Herzegovina encompasses the management of assets and liabilities arising from the (non)utilisation of state-owned assets. These are short-term and long-term liabilities (referring to the liabilities for repairing the damage arisen from natural disasters) that are attributed to appropriate asset line-items in the central register of state-owned assets through detailed classification and records. Liabilities which are attributed to the records of particular assets may be inherited from previous periods. These can be, for instance, outstanding liabilities upon mortgage loans under repayment, created in the relations between the Fund and its clients. It is also indisputable that in the management of state-owned assets some new costs will appear. Such new liabilities are recorded, while accounts payable are paid from net benefits attained from the use of state-owned assets. Therefore, the recording and management of liabilities is unavoidable part of overall activities relative to the management of state-owned assets. There is also appropriate recording of all revenues and expenditures, inflows and outflows concerning the use of state-owned assets, as it constitutes the basis for satisfying the needs of internal and external beneficiaries of financial statements.

Net income – capital gains, income from lease/rent, concession fee, and share in business results, i.e. measurable benefits from the management of state-owned property that have been attributed profit criteria, should be the starting criterion for defining the level of success in the management of state-owned assets. A portion of net benefits should be retained by the Fund to finance various development programmes and projects that would maximise the dispersion of social benefits. Accordingly, it is recommendable to make decisions on strategic investment programmes and projects objectively and deliberately. The principles of profitability are complementary applied in the process, while striving to achieve harmonised goals of sustainable development.

It is up to the government to assume public responsibility for rational and efficient management of state-owned assets. Institutional solution of establishing the Economic Development Fund of Bosnia and Herzegovina would enable actual professionalisation of the management of state-owned assets, while freeing government's capacity to perform appropriate public functions.

5.2. Legal status of the Economic Development Fund of BiH

The Economic Development Fund of BiH is an independent administrative organisation, with a large degree of autonomy. Functionally, it leans on the Council of Ministers of Bosnia and Herzegovina, but without any management by the ministry (Council of Ministers is connected functionally, without the right to management). It is established by the BiH Assembly, to which it is accountable. The Fund has its own management structure with internal and external mechanisms for supervision and control. Organisation-wise, the Fund would have everything that such institutions have. It is important to ensure that the Fund has a high degree of autonomy.

Several alternatives are possible when it comes to the act of incorporation and degree of independence. It is a matter of balancing the goals set for the fund and what is politically possible. Its status should not be the stumbling-stone of its establishment. It is important to define the bottom line when it comes to autonomy and take it to the optimum level through deliberate subsequent actions.

5.3. Ownership of the Economic Development Fund of Bosnia and Herzegovina

The Economic Development Fund of BiH is 100% owned by Bosnia and Herzegovina, which means that there are no co-owners in any form or on any grounds.

5.4. Objectives for the management of the Economic Development Fund of Bosnia and Herzegovina

Unlike the usual management in the public sector, the objectives of the management of the Economic Development Fund of BiH are aimed at:

- establishment of a legal, institutional and supervisory (control) framework for all balances of state-owned assets that are owned by the Economic Development Fund of Bosnia and Herzegovina,
- control and guidance of development processes in local communities, with the help of the resources of the Economic Development Fund of Bosnia and Herzegovina,
- conservation of previously acquired assets – heritage for future generations and, on those grounds, accomplishment of strategic goals and protection of national interests,
- satisfaction of the needs of local communities for developmental resources, while securing public goods and interests, through the provision of services by the Economic Development Fund of BiH.

Hence, the objective of the fund establishment may be manifold. Initially, it is the control of disposal of state-owned assets, while financially it is the stimulus for economic development of BiH, upon own resources that are based on “property rights” over the assets of the state of Bosnia and Herzegovina. Such assets are: real property, rights and money.

5.5. Principles for the management of state-owned assets under the Economic Development Fund of Bosnia and Herzegovina

The management of state-owned assets is based on the principles of publicity, predictability, efficiency and responsibility.

1. Principle of publicity in the management of state-owned assets is ensured by prescribing clear rules and criteria for the management of state-owned assets in regulations and other documents that are passed based on this Law and proclaiming them publicly, by defining the objectives of the management of state-owned assets in the Strategy for management of state-

owned assets and the Plan for management of state-owned assets, by regularly informing the public on the activities of the Fund, by publicly proclaiming the most important decisions on the management of state-owned assets and by keeping the register of state-owned assets. Rulebooks, decisions and other acts of the Fund of relevance for the public and data on the attained objectives and effects of the management of state-owned assets are published on websites or in public media.

2. Principle of predictability. The management of state-owned assets must be predictable for administrations - holders of property rights upon the assets managed by the Fund. In principle, predictability in the management of state-owned assets is achieved by taking identical actions in the same or similar situations.

3. Principle of efficiency. State-owned assets are managed efficiently in order to achieve economic, infrastructural and other objectives defined by the Strategy and Plan for the management as a public interest.

4. Principle of responsibility. This is ensured by prescribing the powers and duties of individual managers of state-owned assets, supervising the management of state-owned assets, reporting on attained objectives and effects of the management of state-owned assets, and by taking measures against managers who do not abide by the regulations.

5.6. Fundamental principles of business policy of the Economic Development Fund of Bosnia and Herzegovina

The Economic Development Fund of Bosnia and Herzegovina is expected to introduce principles of public management, requiring and implying a whole set of long-term and complex processes, as follows:

- Repositioning and modifying the role of the state in the system of property rights by engaging assets in the process of economic development;
- The state is deemed as a business entity that does business in a continuous and rational manner, with the Economic Development Fund of BiH fully contributing thereto with its assets;
- Increased competitiveness in the provision of public services and effective use of public resources to satisfy public needs, while giving economic support to local communities;
- Encouraging more efficient management of developmental resources (regardless of their origin, structure and size), based on impact assessment and evaluation;
- Harmonising the operation of the Economic Development Fund of BiH with the market criteria and adopting the principle of “good husbandry/management of public resources.

5.7. Institutional prerequisites for management of state-owned assets under the Economic Development Fund of Bosnia and Herzegovina

In order to effectively abide by the principles and rules laid down for the operation of the Economic Development Fund of BiH, it is necessary to identify in timely manner those activities that would enable the establishment of an efficient system for the management of state-owned assets, including in particular the following:

- Defining the state competences of other institutions responsible for the management of the remaining state-owned assets;
- Redefining the role of other state institutions that are currently appearing in a role of administrator or beneficiary of particular forms of state-owned assets against the new model of management of state-owned assets upon the Economic Development Fund of BiH;
- Defining the portfolio of state-owned assets and the terms under which certain assets might be included/excluded from the portfolio of the Economic Development Fund of Bosnia and Herzegovina;
- Defining the methods for determining the value of different forms of and different state-owned assets;
- Identifying assets that have characteristics for which they may be deemed as assets not available for management under the Economic Development Fund of Bosnia and Herzegovina;
- Determining the instruments for management of state-owned assets and different forms of assets to which specific methods of asset management or asset use pertain.

5.8. Other prerequisites for management of state-owned assets under the Economic Development Fund of Bosnia and Herzegovina

Other prerequisites for management of state-owned assets under the Economic Development Fund of Bosnia and Herzegovina vary, depending on the goals and guidelines that arise from the reason for its establishment. Despite differences, general prerequisites for efficient management of state-owned assets have been identified in most countries, as follows:

- institutionalisation and professional management of state-owned assets;
- establishment of the register of state-owned assets;
- classification of the state-owned assets;
- recognition and measurement of the state-owned assets;
- formation of the portfolio of state-owned assets.

1. Institutionalisation and professionalisation of the management of state-owned assets in the Economic Development Fund of Bosnia and Herzegovina

Given the diversity of political systems, historical and cultural environments, it is not surprising to have alternative systemic solutions and practical procedures in the management of state-

owned assets in different countries. In most countries, however, there is one common feature that all applied solutions share, which is the establishment of a special institution (fund, company, agency) that is led by professional management and that is entrusted with asset management, and that also comes with corresponding responsibility. The asset management functions under the principles of market competition, hence its fundamental objective is to maximise yield, while at the same time making sure the needs of property beneficiaries are satisfied and ensuring good quality of the portfolio structure.

Asset management does not presume the disavowal of direct responsibility and individualised assignation of risk upon the macroeconomic management for the decisions made regarding the use of state-owned assets. When it comes to the management of risks that emerge in the management of public assets, it is advisable to consider practical experience of others. The experience of others has shown that the system developed for the management of state-owned assets should not be viewed as mere records of the state-owned assets, but rather as a system that enables efficient use of assets and measuring the impact arising from its use, primarily through economic development of the country. There are currently around 50 funds for state-owned assets across the globe, whose asset value, prior to the escalation of the financial crises, was estimated at USD 2.5-3 million.⁴⁰

The importance, the place and the role of the state funds on the world financial scene is undeniable. Special state institutions, most commonly funds, ensure constant enlargement of public assets by reinvesting the money collected from periodical collection of interest and dividends. The funds for the management of state-owned assets are in fact owned by the citizens and cannot be used for achieving socially unacceptable goals.

2. Register of assets of the Economic Development Fund of Bosnia and Herzegovina

The register of assets may be centralised or decentralised. The level of centralisation primarily depends on the organisational scope of the general state sector. Regardless of the level and form of centralisation and on the manner of the use of assets in the public sector, the register could have the characteristics of a standardised database organised at the state level. Such register should serve for the recording of attributes of state-owned assets and related liabilities. The data in the register should be specific, accurate and dynamically updated. In accordance with its purpose, the data from the register should serve as the basis for making decisions on alternative forms of asset management.

3. Classification of assets of the Economic Development Fund of Bosnia and Herzegovina

It is desirable for the database of state-owned assets of each country to encompass all state-owned assets. In this regard, it is possible to have different classifications of state-owned assets. The number and diversity of classifications is primarily the result of the fact that many countries have questions as to which forms of assets should be included in the portfolio of public assets and how to put value on them. According to its intended use, state-owned assets may be

⁴⁰ See I.Kern, *Upravljanje javnom imovinom (Public property management)*, ISTR Minhen, Njemačka, 2007, p. 213.

classified into assets that are freely disposed with, assets that are used by state institutions and assets that are used or potentially used in the provision of public services, etc.

Classification of assets within the central register of assets is crucial for the establishment of a portfolio of the Economic Development Fund of Bosnia and Herzegovina. Such portfolio would constitute a solid basis for the valuation of assets and their efficient use. Just like private assets, state-owned assets may be divided based on various attributes and criteria. Regardless of the classification, all state-owned assets should be recorded in the register of the Economic Development Fund of BiH, regardless of who is in charge of their management and regardless of the options and methods for determining its actual value.

International Public Sector Accounting Standards (IPSAS) constitute a solid foundation for the classification of state-owned assets and, hence, for the application of appropriate procedures for their valuation.

4. Recognition and measurement of assets of the Economic Development Fund of Bosnia and Herzegovina

In order to be able to determine the book value and economic value of assets, it is necessary that each individual form of assets is adequately recognised (in the accounting) and valued (financially). For the recognition and valuation of assets, the recommendations of the International Financial Reporting Standards should be applied. Recognition and valuation of assets in the public sector is a pre-requirement for a more efficient management of state-owned assets, related liabilities and costs, and hence for managing the liquidity policy. Sometimes just because they are acquired or inherited in the past and according to the current practice of state accounting they do not have the attribute of current budget expenditure, certain public assets are not recorded, i.e. their value is set as zero. It is exactly for this reason that the principle of event occurrence is deemed as the only accounting principle whose application enables the creation of a relevant, complete and good-quality information basis for the presentation of value of state-owned assets and is therefore considered as important reform catalyst. Recognition and measurement of assets of the Economic Development Fund of Bosnia and Herzegovina should be based on the aforementioned recommendations.

5. Formation of the portfolio of assets of the State Economic Development Fund of Bosnia and Herzegovina

The fundamental precondition for efficient management of a portfolio of any assets is a detailed definition of the structure and attributes of such portfolio. Starting from the International Financial Reporting Standards and International Public Sector Accounting Standards, when forming a portfolio of state-owned assets, one should first define the attributes and structure of assets that are constituent part of the statement of financial position. It is therefore indisputable that from the aspect of financial reporting, the principal categories of assets from the statement of financial position should be used when creating a portfolio of public assets.

Due to the lack of adequate records, a comprehensive portfolio of public assets cannot be established within short time. When forming a portfolio of the Economic Development Fund of Bosnia and Herzegovina, one must pay special attention to two groups of assets – manageable

and non-manageable public assets, i.e. the portfolio of manageable and the portfolio of non-manageable public assets. The distinction between these two portfolios is the comprehensiveness of the data, i.e. the associated physical, financial and legal attributes of each individual asset line-item. All manageable public assets should be valued in accordance with the possibilities for their alternative uses; this is doable in the first step when establishing the fund. The valuation of non-manageable public assets needs to be postponed until, first of all, any potential statutory restrictions on asset disposal are resolved in detail (e.g. assets which are suspected of being the subject of restitution, etc.). This pertains for the most part to the problem of determining the ownership rights. In this regard, the portfolio of manageable public assets may be considered as active portfolio. The portfolio of non-manageable public assets carries the attributes of incomplete records, i.e. of a passive portfolio. Data on the assets from a passive portfolio should be supplemented on a continuing basis. Upon completion of the data for individual asset line-item from the portfolio of non-manageable assets, it becomes manageable and, in the central register of state-owned assets, it is transferred into the portfolio of manageable assets. Thus, at the beginning of its operation, the Economic Development Fund of BiH will have an active portfolio and a passive portfolio.

5.9. Overview of the forms of assets to be managed in the Economic Development Fund of BiH

In a series of laws, one can see various forms of assets owned by the State of Bosnia and Herzegovina. They speak to the wealth and diversity, as well as major potential of these assets. Expected benefits from the use of assets must become important driving force behind activities and be carefully identified in all development strategies and operational plans. The activities linked to the following forms of assets owned by Bosnia and Herzegovina will be subject to inclusion of assets in the Economic Development Fund of Bosnia and Herzegovina:

Table -2. *State-owned property that will be included in the portfolio of the Development Fund of Bosnia and Herzegovina*

Number	Form of property covered
<i>1.</i>	<i>Agricultural land</i>
<i>2.</i>	<i>Forests, forest lands and facilities they manage</i>
<i>3.</i>	<i>Waters, public water resources and water structures</i>
<i>4.</i>	<i>Deposits of mineral raw materials</i>
<i>5.</i>	<i>Roads, highways, railway lines and bridges along with appurtenant land</i>
<i>6.</i>	<i>Apartments owned by the State of Bosnia and Herzegovina</i>
<i>7.</i>	<i>Business premises owned by the State of Bosnia and Herzegovina</i>
<i>8</i>	<i>Forms of property that appear to be owned by the State of Bosnia and Herzegovina, which are in ownership of institution founded by the State of Bosnia and Herzegovina</i>
<i>9</i>	<i>Property that had military purpose</i>
<i>10.</i>	<i>Property that currently has military purpose</i>
<i>11.</i>	<i>Property owned by former commercial entities from the former SFRY (which is the subject of succession)</i>
<i>12.</i>	<i>Real property recorded in land registers as socially-owned property and public property</i>
<i>13.</i>	<i>Real property that has not been assessed in the share capital during the privatization process and real property for which the process of determination of ownership is underway.</i>
<i>14.</i>	<i>The revenues of the budget derived from the collection of fees for usage of property owned by</i>

	<i>the State of Bosnia and Herzegovina (fee for the right of construction and the right to easement on land owned by the State of Bosnia and Herzegovina, concession fees, revenues from apartment rentals, renting of business premises and agricultural land)</i>
15.	<i>Buildings of the Parliament, Central Bank, Government of Bosnia and Herzegovina, ministries and court offices, which are recorded in land registers as socially-owned property and public property.</i>
16.	<i>Residential real property, embassies and consular offices (owned by the State of Bosnia and Herzegovina)</i>
17.	<i>Real property under protection (but not privately owned), archaeological sites, museums, cultural property, which is recorded in land registers as socially-owned property and public property</i>
18.	<i>Sports facilities if they are owned by the State of Bosnia and Herzegovina</i>
19.	<i>Securities (stocks and business shares in companies owned by the State of Bosnia and Herzegovina)</i>
20.	<i>Works of art</i>
21.	<i>Cash, cash equivalents, gold bars</i>
22.	<i>Confiscated property acquired through commission of criminal offences and minor offences</i>
23.	<i>Electronic communication infrastructure and other related equipment</i>
24.	<i>Patents and licences assigned to the State of Bosnia and Herzegovina</i>
25.	<i>Patents and licences assigned to the State of Bosnia and Herzegovina</i>
26.	<i>Claims on other countries, natural and legal persons</i>
27.	<i>Official vehicles, vessels and airplanes</i>
28.	<i>Property given to use to former socio-political organizations of the State of Bosnia and Herzegovina</i>
29.	<i>Property of the State of Bosnia and Herzegovina in the form of shares and business interests in companies</i>
30.	<i>Commodity reserves owned by the State of Bosnia and Herzegovina</i>
31.	<i>Fish fund and Game</i>
32.	<i>Gifts to state officials over 5,000 KM value</i>
33.	<i>Other manifested forms of assets owned by the State of Bosnia and Herzegovina</i>

6. Structure of the Economic Development Fund of Bosnia and Herzegovina

The structure of the Economic Development Fund of BiH shall be regulated by the Law on the Fund. The Law will provide for adoption of three important documents related to management of state-owned property and they will be as follows:

- The Strategy, which defines the medium-term goals and guidelines of the BiH Development Fund, and is adopted by the BiH Parliament for a period of 4 years
- The State-owned assets Management Plan, which defines the short-term goals and guidelines for management of the state-owned property and measures for the implementation of the Strategy, is adopted by the BiH Parliament for a period of one year and no later than on 30 November of the current year for the following year
- Plan Implementation Report is submitted by the Fund to the BiH Parliamentary Assembly covering a period of 4 years (for the previous year), and the bodies of the Fund are obliged to submit it by 31 March of the current year to the Council of Ministers of BiH, which then submits it to the Parliament of BiH for adoption

Internal documents deriving from the Law will serve to initially regulate that the following basic management structures will be designed and organized in order to carry out activities within the scope of the Economic Development Fund of Bosnia and Herzegovina:

1. Director of the Fund (with associated services)
2. Secretariat of the Fund
3. Sector for strategy, planning, analysis, coordination and harmonization of criteria, asset register, publication of decisions, and supervision over management and disposal of Fund property
4. Sector for management of assets of the Fund

Fund employees will be recruited from the existing state agencies and institutions, and they will be persons who previously had contact with issues related to the management of state-owned property. The Fund is financed from operating activities, i.e. exclusively from its own resources - revenues.

7. Initial portfolio of the Economic Development Fund of Bosnia and Herzegovina

It has been planned that the following state-owned property will be included in the opening balance sheet of the Economic Development Fund of Bosnia and Herzegovina:

- Estimated value of the land belonging to the State of Bosnia and Herzegovina,
- Registered balance of claims of Republika Srpska in respect of the successor countries of the former SFRY,
- The value of buildings from the passive sub-balance of the Federation of Bosnia and Herzegovina,
- Estimated value of real property of the former Yugoslav People’s Army (BCS: *Jugoslovenska Narodna Armija - JNA*) on the territory of Bosnia and Herzegovina,
- The value of diplomatic residential facilities that came in possession of Bosnia and Herzegovina,
- The value of state-owned property – claims on financial institutions,
- The value of state-owned property located in Dubrovnik - Republic of Croatia.

7.1. The value of land of the State of Bosnia and Herzegovina

Based on data from land and property statistics taken over from the Administration for Geodetic and Real Property Affairs of FBiH, the structure of land in Bosnia and Herzegovina in 1991 was as follows:

Table-3. *Numerical strength of households and parcels, as well as the distribution of total area of Bosnia and Herzegovina by cadastral cultures expressed in hectares (ha)*

Land structure in BiH in 1991, expressed in hectares (ha)

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Description	Private sector	State sector	Total
Fields	994,883	103,035	1,097,919
Gardens	1,135	130	1,265
Orchards	89,056	9,319	98,375
Vineyards	3,093	1,405	4,498
Meadows	389,183	67,624	456,807
Grasslands	299,188	574,735	873,923
Forests	555,685	1,806,628	2,313
Reeds and marshes	343	350	693
All (fertile):	2,332,570	2,563,229	4,885,799
Infertile	45,575	176,858	222,433
Total	2,378,145	2,740,087	5,118,232

* The data was taken over from the Republic Administration for Geodetic and Property Affairs. Arable land, according to the official statistics, includes: fields and gardens (plowlands and vegetable gardens), orchards, vineyards and meadows, while the remaining land is non-arable land.

One can see from the above table (not counting the surface under the sea) that the State had ownership over approximately 53.35% of land in Bosnia and Herzegovina on 31 December 1991.

Table-4. The value of land owned by Bosnia and Herzegovina, divided by structure ⁴¹

Description	State sector	Average price expressed in BAM/ m²	Total in (000) BAM
Fields	103,035	5.50	5,666,925
Gardens	130	9.40	12,220
Orchards	9,319	15.00	1,394,850
Vineyards	1,405	15.80	221,990
Meadows	67,624	10.50	7,100,520
Grasslands	574,735	5.00	28,736,750
Forests	1,806,628	3.00	5,419,884
Reeds and marshes	350	1.00	3,500
Total	2,740,087		48,556,639

The overview shows that the estimated value of land owned by Bosnia and Herzegovina is 48.556 billion BAM. Based on the International Public Sector Accounting Standards (IPSAS)

⁴¹ Land prices taken from the study "Succession", EIT Sarajevo

and following the principle of initial valuation, the mentioned property will be included in the State-owned property Register, which will be maintained by the Economic Development Fund of Bosnia and Herzegovina. Before this property is entered into the Register, all dilemmas related to value and ownership will be solved.

7.2. Registered balance of claims of Republika Srpska in respect of the successor countries of the former SFRY

Republika Srpska has stated value claims for real property, followed by various other claims towards the successor countries of the former SFRY and indicated its liabilities as counterweight. The following table was created based on the mentioned records:

Table-5. *Claims and liabilities of commercial entities from Republika Srpska towards the entities who have their seats in other successor countries of the former SFRY*⁴²

IN BAM

Property portfolio of Successor country	REAL PROPERTY	CLAIMS	LIABILITIES	TOTAL 5= (2+3-4)
1	2	3	4	5
REPUBLIC OF CROATIA	4,276,729	2,605,503	5,488,566	1,393,746
REPUBLIC OF SLOVENIA	153,438	1,792,163	1,008,366	937,235
REPUBLIC OF SERBIA	1,280,600	4,379,687	1,559,991	4,100,296
FYR MACEDONIA	299,501	203,790	48,329	454,962
REPUBLIC OF MONTENEGRO	307,964	283,663	9,409	582,218
TOTAL	6,318,232	9,264,886	8,114,661	7,468,457

The table shows that the positive balance of claims is 7.468 million BAM. The stated amount of claims will be included in the opening balance of the Economic Development Fund of Bosnia and Herzegovina. The confirmed amounts will be entered, as real value, into the State-owned property Register maintained within the Economic Development Fund of Bosnia and Herzegovina.

7.3. The value of buildings from the passive sub-balance of the Federation of Bosnia and Herzegovina

Records in cantonal privatization agencies and the **Federal Agency for Privatization in FBiH** contain the values of buildings located in the territory of the countries formed by the dissolution of the SFRY, which are the property of the State of Bosnia and Herzegovina. The listed values per agencies are shown in the following table:

Table-6. *Reported value of buildings from the passive sub-balance of the Federation of Bosnia and Herzegovina*⁴³

⁴² Source: Ministry of Finance of Republika Srpska

⁴³ Source: Agency for Privatization in FBiH

Facilities registered with privatization agencies	Number of facilities	Value IN BAM
Federation of BiH	312	167,897,147.00
Una-Sana Canton	32	1,051,181.00
Tuzla Canton	43	1,664,339.00
Zenica-Doboj Canton	27	1,157,776.00
Bosnia-Podrinje Canton	18	4,578,090.00
Herzegovina-Neretva Canton	2	186,002.00
Sarajevo Canton	118	267,820,322.00
Total	552	444,354,867.00

One can see from the above table that the total value of these facilities is BAM 444.354 million. The above amount will be included in the opening balance of the Economic Development Fund of Bosnia and Herzegovina. Based on the International Public Sector Accounting Standards (IPSAS) and following the principle of initial valuation, the mentioned property will be included in the State-owned property Register, which will be maintained by the Economic Development Fund of Bosnia and Herzegovina. Before this property is entered into the register, all dilemmas related to value and ownership will be solved.

7.4. The value of real property of JNA on the territory of Bosnia and Herzegovina

Based on the inventory and evaluation of the Report of the Expert Team for Succession of the Federation of BiH, the Ministry of Defence of FBiH and the Army of RS, a table of values of the immovable military property of the former JNA on the territory of BiH was prepared. The value of the mentioned property will be included in the opening balance of the Economic Development Fund of Bosnia and Herzegovina. The listed values per facility are given in the following tabular overview:

Table-7. Overview of the immovable property of the former JNA on the territory of Bosnia and Herzegovina⁴⁴

Number	Name of the facility	Location	Estimated value- approximate
1.	Facilities and warehouses in the “Slaviša Vajner Čiča” barracks	Sarajevo-Lukavica	2,978,000.00
2.	Facilities and warehouses in the “Slobodan Princip Seljo” barracks	Sarajevo-Lukavica	3,120,000.00
3.	Two (2) warehouses of “KUBM” rockets	Sarajevo-Lukavica	1,320,000.00
4.	Tilava command and communication facilities	Lukavica-Sarajevo	1,487,000.00
5.	Zlatište command and communication facilities	Trebević Sarajevo	156,000.00
6.	Warehouse of material and technical resources	Vojkovići-Sarajevo	145,000.00

⁴⁴ Source: Report of the Expert Team for Succession of the Federation of BiH, the Ministry of Defense of FBiH and the Army of RS

	(BCS: Materijalno-tehnička sredstva - MTS) of the Air Base in Krupac		
7.	Facilities at the shooting range	Vojkovići-Sarajevo	150,000.00
8.	Farm military facility for pig breeding	Lukavica-Sarajevo	1,125,000.00
9.	Training ground in Čemersko polje	Lukavica	1,120,000.00
10.	Facilities and warehouses of MTS in military barracks at Koran	Pale	150,000.00
11.	Technical warehouse facilities for mines and explosive ordnance (BCS: <i>Minsko-eksplozivna sredstva - MES</i>) in Rakovica	Pale	1,150,000.00
12.	Facilities and warehouses of the School for Reserve Officers (BCS: <i>Škola za rezervne oficire - ŠRO</i>) in the barracks “Moša Pijade”	Bileća	1,200,000.00
13.	Technical warehouse facilities of the federal authorities	Foča	1,300,000.00
14.	Technical warehouse facilities for propellants	Vardište	1,130,000.00
15.	Technical warehouse facilities of ammunition and MES	Rudo	140,000.00
16.	Technical warehouse facilities of ammunition and MES	Višegrad	140,000.00
17.	Technical warehouse facilities of ammunition and MES	Krupanjska rijeka	150,000.00
18.	Warehouse facilities in the barracks “NH Blagoje Parović”	Nevesinje	230,000.00
19.	Other facilities in Kalinovik training ground	Kalinovik	210,000.00
20.	Facilities of the barracks “Pero Kosorić”	Kalinovik	240,000.00
21.	Facilities of the stationed communication hub “Bjelašnica”	Bjelašnica	250,000.00
22.	Military resort facilities-hotels (“Šator”and “Vila”)	Jahorina	250,000.00
23.	Aerial observation, reporting and guidance unit (BCS: <i>Vazduhoplovno osmatranje, javljanje i navođenje - VOJIN</i>) facilities at Jahorina	Pale	550,000.00
24.	Technical warehouse facilities of ammunition and MES	Ustikolina	110,000.00
25.	JNA House and military restaurant facility “Romanija”	Doboj	280,000.00
26.	Facilities at Putnikovo Brdo shooting range	Doboj	220,000.00
27.	Facilities and warehouses of MTS Donje Ševarlije	Doboj	235,000.00
28.	Facilities and warehouses in the barracks “4.juli”	Doboj	275,000.00
29.	Facilities and warehouses of war material assets (BCS: <i>Ratna materijalna sredstva - RMS</i>) at Krepšić	Brčko	260,000.00
30.	Military catering facility “Romanija”	Brčko	220,000.00
31.	Facilities and warehouses in the barracks “Veljko Lukić-Kurjak”	Brčko	250,000.00
32.	Facilities and warehouses for accommodation and placement purposes of 216. Mountain Brigade	Han Pijesak	280,000.00
33.	Underground facilities of the Supreme Military Command “Goljak”	Han Pijesak	1,300,000.00
34.	Facilities of the radio-relay centre “Stolice” at Majevisa	Majevisa	115,000.00
35.	JNA House	Bijeljina	1,300,000.00
36.	Military garrison library and clinic facilities	Bijeljina	1,250,000.00
37.	Facilities and warehouses in the barracks “Fadil	Bijeljina	1,120,000.00

	Jahić Španac”		
38.	JNA House and other facilities of military catering institution (BCS: <i>Vojno ugostiteljska ustanova - VUU</i>) “Romanija”	Trebinje	800,000.00
39.	Facilities and warehouses of MTS belonging to 24. Mountain-Naval Infantry Unit	Trebinje	500,000.00
40.	Radio-relay communication centres	Leutar-Trovrh	135,000.00
41.	Military garrison library and clinic facilities	Bileća	250,000.00
42.	JNA House and other facilities of VUU “Romanija”	Bileća	475,000.00
43.	Other facilities and warehouses at School Centre for Reserve Officers (BCS: <i>Školski centar za rezervne oficire -ŠC RO</i>) Bileća	Bileća	350,000.00
44.	Facilities of the military medical centre	Banja Luka	2,950,000.00
45.	Accommodation facilities in ”Kozara” barracks	Banja Luka	1,250,000.00
46.	Facilities belonging to 5. Corp and garrison command	Banja Luka	1,350,000.00
47.	MTS facilities and warehouses of 188. Pont. Battalion	Bos.Gradiška	420,000.00
48.	Facilities and warehouses of 343. Motorized Brigade and 10.pat. division	Prijedor	900,000.00
49.	Facilities of Aviation and Technical Repair Institute “Kosmos”	Banja Luka	1,150,000.00
50.	Facilities of teaching centre Zalužani	Banja Luka	1,850,000.00
51.	Facilities of the school centre of the armoured mechanized unit	Banja Luka	2,500,000.00
52.	Intendant warehouse facilities	Golubići	350,000.00
53.	Facilities for training of division, platoon and company commanders of RS	Derventa	360,000.00
54.	JNA House and VUU “Romanija”	Derventa	1,100,000.00
55.	Placement facilities for MTS of 327. Motorized Brigade	Derventa	1,150,000.00
56.	Placement facilities for RMS and facilities in ”Z.Čelar” barracks	Derventa	500,000.00
57.	Facilities for reserves of the 980 logistics base	Banja Luka	850,000.00
58.	Spare parts storage facilities	Ušivak	220,000.00
59.	Technical warehouse facilities	Banja Luka	250,000.00
60.	Spare parts technical warehouse facilities	Trapisti–Banja Luka	400,000.00
61.	Propellant technical warehouse facilities	Zalužani-Banja Luka	800,000.00
62.	Ammunition and MES technical warehouse facilities	Bosanski Novi	550,000.00
63.	Ammunition and MES technical warehouse facilities	Mrkonjić Grad	550,000.00
64.	Military garrison library and clinic facilities	Doboj	500,000.00
65.	Sanofarm	Sarajevo	1,450,000.00
66.	Technical Repair Institute of the ground forces (BCS: <i>Kopnena vojska - KoV</i>)	Travnik	2,100,000.00
67.	Technical Repair Institute of the KoV	Hadžići	3,200,000.00
68.	School Centre of the KoV “Kosta Nad”	Sarajevo	1,550,000.00
69.	School Centre of Air Force and Anti-Air Defence (BCS: <i>Ratno vazduhoplovstvo - RV and Protivvazdušna odbrana - PVO</i>)	Rajlovac	1,450,000.00
70.	General Secondary Military School	Mostar	1,750,000.00

71.	Teaching centre of the KoV - traffic	Čapljina	650,000.00
72.	Teaching centre for training of the technical service	Travnik	1,300,000.00
73.	Teaching centre of the KoV – for intendants	Bihać	1,200,000.00
74.	Corp command and unit headquarters command	Banja Luka	1,500,000.00
75.	Ammunition and MEO technical warehouse facilities	Krčmarice	200,000.00
76.	Military catering facility “Romanija”	Banja Luka	1,450,000.00
77.	Manjača training ground facilities	Banja Luka	2,150,000.00
78.	Military library facilities	Banja Luka	1,250,000.00
79.	Facilities and warehouses of MTS Rakovačke-Bare	Banja Luka	750,000.00
80.	Garrison clinic facilities	Banja Luka	1,300,000.00
81.	JNA House	Banja Luka	2,950,000.00
82.	Facilities and training grounds for underwater training of crews of armoured mechanized (BCS: Oklopno-mehanizovani - OM) vehicles	Banja Luka	1,400,000.00
83.	Airport MTS facilities and warehouses	Banja Luka	1,500,000.00
84.	Facilities and warehouses in the barracks “Krajiške brigade”	Banja Luka	1,800,000.00
85.	Facilities and warehouses in the barracks “Mladen Stojanović”	Banja Luka	2,200,000.00
86.	Corp command and unit headquarters command	Sarajevo i Tuzla	3,500,000.00
87.	Aircraft factory	Mostar	5,000,000.00
88.	Secondary air base	Sarajevo i Tuzla	7,500,000.00
89.	Air Base (Ripač, Željjava, Pokoj)	Bihać	11,000,000.00
90.	Air Base - Jasenica, D.Drašnica, D.Raštani	Mostar	7,000,000.00
91.	JNA House	Zenica	1,500,000.00
92.	JNA House	Čapljina	1,400,000.00
93.	JNA House	Brčko	1,350,000.00
94.	JNA House	Travnik	1,350,000.00
95.	JNA House	Mostar	1,500,000.00
96.	JNA House	Bihać	1,350,000.00
97.	JNA House	Tuzla	1,500,000.00
98.	JNA House	Sarajevo	2,000,000.00
99.	Military catering facility “Romanija”	Sarajevo	950,000.00
100.	Garrison clinic for RV and PVO	Bihać	1,200,000.00
101.	Garrison clinic for RV and PVO	Tuzla	1,400,000.00
102.	Garrison clinic for RV and PVO	Mostar	1,400,000.00
103.	Garrison clinic for RV and PVO	Rajlovac	1,350,000.00
104.	Garrison clinic for RV and PVO	Brčko	1,200,000.00
105.	Garrison clinic for KOV	Zenica	1,350,000.00
106.	Garrison clinic for KOV	Visoko	1,150,000.00
107.	Garrison clinic for KOV	Travnik	1,250,000.00
108.	Garrison clinic for KOV	Čapljina	1,150,000.00
109.	Garrison clinic for KOV	Tuzla	1,280,000.00
110.	Garrison clinic for KOV	Mostar	1,250,000.00
111.	Military Medical Centre	Sarajevo	4,500,000.00
112.	Military Hospital	Sarajevo	55,000,000.00
113.	Technical Repair Institute of RV and PVO “ORAO”	Rajlovac	1,800,000.00

	Total		203,646,000,00
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One can see from the above table that the total value of these facilities is 203.646 million BAM. The above amount will be included in the opening balance of the Economic Development Fund of Bosnia and Herzegovina. Based on the International Public Sector Accounting Standards (IPSAS) and following the principle of initial valuation, the mentioned property will be included in the State-owned property Register, which will be maintained by the Economic Development Fund of Bosnia and Herzegovina. Before this property is entered into the register, all dilemmas related to value and ownership will be solved.

7.5. The value of diplomatic residential facilities that came in possession of Bosnia and Herzegovina

Based on the documentation of the Ministry of Finance and Treasury of BiH, a table of values of diplomatic residential facilities has been prepared, which, according to the "Succession Agreement", were awarded to Bosnia Herzegovina, and whose value has already been determined. Facilities that have not yet been taken over will be subsequently included in the balance of the Economic Development Fund of Bosnia and Herzegovina. The mentioned values are given in the following table:

Table-8. *Diplomatic facilities awarded to Bosnia and Herzegovina⁴⁵, implementation of the Annex B of the Agreement on Succession of property of former SFRY*

Location of facility	Type of facility	Facility floor area	Land area	Estimated by Annex	Expert estimate
1. BUDAPEST	Ambassador's residence	-	-	US\$ 600,000	EUR 614,000.00.
2. MADRID	The Embassy building of the former SFRY	1,200 m ²	684 m ²	US\$3,200,000.00	EUR 3,250,000.00
3. OTAWA	The Embassy building of the former SFRY	-	-	US\$ 2,500,000.00	CAD\$ 1,367,000.00
4. OSLO	The Embassy building of the former SFRY	732 m ²	984 m ² .	US\$ 1,700,000.00	NOK 21,700,000 or roughly BAM 640,000.00
5. LONDON	The Embassy building of the former SFRY	1,308 m ²	463 m ²	10.9 mil. USD	KM 14,685,844.93
6. MILAN	Immovable property - apartment	61 m ²		US\$ 200,000.00	EUR 197,700.00
7. VIENNA	Residences of	-	3,715.00	US\$	EUR

⁴⁵ Source: Ministry of Finance and Treasury of BiH

	ambassadors of the former SFRY		m ² .	1,800,000.00	2,334,000.00
8. WASHINGTON	House of military attaché of the former SFRY	495.00 m ²	1,052 m ² ,	US\$ 1,200,000.00	US\$ 350,000.00
9. BONN	Share in the building of the Embassy of the former SFRY in Bonn	-	-	-	-
10. NEW YORK	Suite in New York (USA)				
11. ANKARA	The Embassy building of the former SFRY	-	-	-	-
12. NAIROBI (KENYA)	Part of the Embassy building				
13. ALGIERS (ALGERIA)	Part of the Embassy building				

Table-9. Summary of value of diplomatic facilities

Name of the facility	Estimated value in millions of USD
1. Austria – Residence	1.8
2. Italy – Apartment	0.2
3. Canada – Embassy	2.5
4. Hungary – Residence	0.6
5. Norway – Embassy	1.7
6. USA – House	1.2
7. Spain – Embassy	3.2
8. Turkey – Embassy	0.9
Total in mill. USD	12.10
Total in mill. BAM	20.69

One can see from the above table that the total value of these facilities is BAM 20.69 million. The above amount will be included in the opening balance of the Economic Development Fund of Bosnia and Herzegovina.

7.6. The value of State-owned property – claims on financial institutions

The following value of the property – claims on financial institutions is included in the opening balance of the Economic Development Fund, as follows;

1.-Claims on commercial banks

A part of the foreign currency assets created under the Succession Agreement which has not yet been collected is included in the portfolio of the Economic Development Fund of Bosnia and Herzegovina. This group consists of funds from the following banks:

1. **Jugobanka Agency in New York**
2. **Beogradska banka in New York**
3. **Adria bank ag Wien**
4. **Banque franco-yougoslave Paris**
5. **Beogradska banka ibu Nicosia**
6. **Lhb internationale handelbank Frankfurt**

Of the remaining 6 mixed banks, bankruptcy procedures are being conducted in regards to 2 banks before the court in the USA, and these are Jugobanka and Beogradska banka agencies in New York. According to the Agreement, the balance of these banks' accounts as of 31 March 2001 was as follows:

- Beogradska banka NY Agency	US\$	71,989,988.84
- Jugobanka NY Agency.....	US\$	83,094,868.17
<u>TOTAL</u>		<u>US\$ 155,084,677.01</u>

The issue of deposit with the other 4 mixed banks remains to be solved, and these are:

- **Adria bank ag Wien**
- **Banque franco-yougoslave Paris**
- **Beogradska banka ibu Nicosia**
- **Lhb internationale handelbank Frankfurt**

Amounts and collection of payment from these banks is uncertain and the solution should not be expected soon.

2.-Claims for Tripartite Gold

Cash assets have been transferred to the account with the Central Bank of BiH and the relevant amount of **£ 5,515.78. was paid to BiH. Money for gold in the amount of USD 300,000.00 has not been paid yet.**

3.-Funds from the clearing debt of the Russian Federation

Bosnia and Herzegovina accrued the amount of **200,252,355.00 clearing dollar (USD 125,157,834.38 based on the exchange rate 1 clearing \$=0,625 USD)**. The manner in which BiH will collect its claims shall be defined in a bilateral agreement between BiH and the Russian Federation. Activities on regulation and collection of the Clearing Debt from the Russian Federation will continue.

4.-Claims of Bosnia and Herzegovina against Mongolia

The claim Bosnia and Herzegovina against Mongolia **amounts to 929,561.99 clearing dollar.** The Joint Committee designated the Republic of Serbia to approach Mongolia to this end.

Reports received from the Ministry of Finance of Serbia indicate that activities are underway to organise a meeting with successor countries with the Mongolian party.

The tables below show a summary of claims against the financial institutions made based on the information on the amount of the claims.

Table-10. *Summary of the claims from the financial institutions*⁴⁶

Type of Claim	Claim in US\$
Commercial banks	155,084,677.01
Tripartite gold	300,000.00
Debt of the Russian Federation	125,157,834.38
Debt of Mongolia	581,032.00
Total in US\$	281,123,543.39
Total in BAM	480,186,611.40

The table shows that the value of the financial assets amounts to 480,186 million BAM. The amount will also be included in the opening balance of the Economic Development Fund of Bosnia and Herzegovina.

7.7.Value of the state-owned assets located in Dubrovnik – the Republic of Croatia

Buildings and land located in the Republic of Croatia, which were previously owned by the SR of Bosnia and Herzegovina, will also be included in the opening balance of the Economic Development Fund. The value of the state-owned assets located in Dubrovnik – the Republic of Croatia is presented in the table below:

Table-11. *Overview of values of the state-owned assets located in Dubrovnik – the Republic of Croatia*⁴⁷

• Villa Aurora Trsteno, Dubrovnik, building 1138 m2, land 7033 m2,
• Villa Erika (Bosanka), Dubrovnik, building 130 m2, land 796 m2,
• Hotel Vis II at Lapad, Dubrovnik, building 968 m2, land 9041 m2,
• Hospital in Cavtat, building and land 5000 m2
• Land in Srebreno 1980 m2
• Land in Gruž, Dubrovnik 745 m2
• House and land in Omiš 1064 m2

A rough assessment indicates that the value of these assets is about EUR 10,900,000, and/or BAM 21,364,000.00. This amount will also be included in the opening balance of the Economic Development Fund of BiH.

⁴⁶ Source; Ministry of finance and treasury of BiH

⁴⁷ Source: Ministry of Finance and treasury of BiH

7. 8. Value of the initial portfolio of the Economic Development Fund of Bosnia and Herzegovina

Table-12. Overview of the values of the initial portfolio of the Economic Development Fund of BiH

Title of the Portfolio	Value in BAM
• State-owned land in BiH	48,556,639,000.00
• Balance of claims from Republika Srpska from the successors of the former SFRY	7,468,457.00
• Value of building structures from the passive sub-balance of FIH	444,354,867.00
• Real estate owned by the former JNA	203,646,000.00
• Diplomatic buildings	20,690,000.00
• Financial claims	480,186,611.40
• State-owned assets in Dubrovnik – Republic of Croatia	21,364,000.00
Total	49,734,348,935.40

The total value of the opening balance of the Economic Development Fund of Bosnia and Herzegovina amounts to **49,734,348,935.40**. **This amount constitutes the initial capital of the Fund.**

8. Activity of the Economic Development Fund of Bosnia and Herzegovina

The activity of the fund should follow two major lines, namely:

1. Main activity
2. Derivative activity

1. The main activity of the Fund will pertain to the following:

- legal and institutional control (controlling) of all forms of state-owned property owned by the Economic Development Fund of Bosnia and Herzegovina,
- controlling and streamlining of development processes in local communities through the funds of the Economic Development Fund of Bosnia and Herzegovina,
- preservation of the previously acquired assets-succession for future generations, and to this end, fulfilment of strategic goals and protection of national interests,
- satisfying the needs for development funds needed in the local communities, including safeguarding of the public goods and interests through services rendered by the Economic Development Fund of Bosnia and Herzegovina.

2. *Derivative activity of the Fund* will take two main lines. The first line is generation of current funds of the Fund, and the second is the investment of free funds of the Fund.

Generation of current assets

- Proceeds from sale of unattractive assets for construction of privately owned buildings;
- Proceeds from rental fees for assets leased for use;
- Proceeds from rental fees collected for use of natural resources;
- Proceeds from collection of claims from the passive sub-balance;
- Proceeds acquired based on issued guarantees on various basis needed for the implementation of new projects;
- Proceeds from effects realised through activities on the capital market, by selling their own shares and purchasing shares of others;
- Proceeds from issuance of their own securities;
- Proceeds generated through the management of the state-owned financial assets on demand;
- Proceeds generated through borrowing on a discount basis;
- Proceeds generated by steering of inflation developments etc.

Investment of free funds

- Investment of funds into new profit oriented projects of strategic importance for the state;
- Investment into existing economic operators which currently suffer economic difficulties, and which are of importance for the national economy and at the same time promising. Financial support to this project would on a provisional basis involve participation in the ownership over purchase of share or capital injections. Upon the recovery of the company, the equity would be sold and the funds returned to the Fund. The cost of capital would be paid from the joint profit.
- Investment of funds into project based on the profit-oriented public-private partnership.

During the initial years of its operation, the Fund should focus the activities on the organisational structure and system of forming the Registry of the state-owned property, as well as basic activities related to preservation and management of the Fund. As for derivative activities, maximum efforts should be made in generation of current assets.

As for the investment of current assets during the first years, the Fund should provide support to economic operators with economic difficulties which are of importance for the national economy and promising at the same time.

8. Economic effects of establishing of the Economic Development Fund of Bosnia and Herzegovina

At this stage the economic effects of establishing of the Economic Development Fund of Bosnia and Herzegovina can be presented in a dual way:

- 1) Economic effects that cannot be financially measured at this stage of the Fund establishing process,

2) Those that can be financially presented based on the parameters related to the initial balance sheet and on the expected outcomes of implementation of the planned activities of the Fund.

1. Economic effects that cannot be financially measured at this stage of establishing of the Economic Development Fund of Bosnia and Herzegovina are the following:

- The issue of multiplication of responsibilities of the public institutions in charge of the management of different types of the state-owned assets would be addressed
- State-owned assets would be put into service of BiH economic development.
- The level of transparency of the state-owned assets management would be raised by creation of a single, comprehensive, standardized and centralized register of the public assets with decentralisation of the register information.
- The conditions for professionalization of activities related to the state-owned assets management would be created.
- The economic efficiency would be achieved with the business principle, bigger social benefits from expenditures.
- The disarray in the records, validation and command of the state-own assets would be eliminated.
- The accountability of the public management for an efficient use of the public assets would be enhanced.
- The development policy would be partially shifted from the budget frameworks to the Fund, which would leave more room for development of a more efficient public administration.
- The prerequisites for reform of the state-owned assets management as a long-standing, continuous process would be created
- The requirements for a series of institutional, institution-related and human resource adjustments would be generated.
- Since the citizens are the owners of the state-owned assets, establishing of the Fund would put them in a position of an investor, and the efficacy of the state-owned assets management would be measured by the degree to which it meets citizen needs, primarily those related to the local community.
- The prerequisites would be created that, once the method of commercial use of individual public assets is identified, it does not mean that the method of their use cannot be

modified, if there are new more favourable or less favourable circumstances in the environment.

- The options would be created that the identification of the method of commercial use of the state-owned assets can be interpreted in different ways, depending on the circumstances and needs.
- The following principle would be introduced: When put into service, all assets do not have to generate profit, or social benefit.
- The model of the state-owned assets management via Economic Development Fund of Bosnia and Herzegovina would facilitate a uniform coverage of assets and liabilities stemming from (non)use of the state-owned assets, and the management principle would be based on those grounds.
- The conditions would be created that net revenues – capital gain, lease/rental revenue, concession fee and stakes in business performance, are measurable with the use of alternative profit criteria.

2. Economic effects that can be financially presented at this stage of establishing of the Fund

- Value of the issued guarantees amounting to BAM 5,000,000,000.00 of the Economic Development Fund of Bosnia and Herzegovina
- Placement of funds to the new projects that have strategic importance for the country, and which are profit-based; amounting to **BAM 150,000,000**
- Placement into the existing business entities currently facing economic difficulties, which are important for the national economy and have good prospects at the same time amounting to BAM 200,000,000.

9. Concluding Remarks

Summing up the characteristics of the state-owned assets management model we can draw the following conclusions. With the establishing of the Economic Development Fund of Bosnia and Herzegovina:

- **The issue of multiplication of responsibilities of the public institutions in charge of the management of different types of the state-owned assets would be addressed**
- **State-owned assets would be put into service of BiH economic development.**

- **The level of transparency of the state-owned assets management would be raised by creation of a single, comprehensive, standardized and centralized register of the public assets with decentralisation of the information.**
- **The conditions for professionalization of activities related to the state-owned assets management would be created.**
- **The economic efficiency would be achieved with the business principle, bigger social benefits from expenditures.**
- **The disarray in the records, validation and command of the state-own assets would be eliminated.**
- **The accountability of the public management for an efficient use of the public assets would be enhanced.**
- **The development policy would be partially shifted from the budget frameworks to the Fund, which would leave more room for development of a more efficient public administration.**
- **The prerequisites for reform of the state-owned assets management as a long-standing, continuous process would be created**
- **The requirements for a series of institutional, institution-related and human resource adjustments would be generated.**
- **Since the citizens are the owners of the state-owned assets, establishing of the Fund would put them in a position of an investor, and the efficacy of the state-owned assets management would be measured by the degree to which it meets citizen needs, primarily those related to the local community.**
- **The prerequisites would be created that, once the method of commercial use of individual public assets is identified, it does not mean that the method of their use cannot be modified, if there are new more favourable or less favourable circumstances in the environment.**
- **The options would be created that the use and identification of the method of commercial use of the state-owned assets can be interpreted in different ways, depending on the circumstances and needs.**
- **The following principle would be introduced: When put into service, all assets do not have to generate profit, or social benefit.**
- **The model of the state-owned assets management via the Economic Development Fund of Bosnia and Herzegovina would facilitate a uniform coverage of assets and**

liabilities stemming from their (non)use, and the management principle would be based on those grounds.

The conditions would be created that net revenues – capital gain, lease/rental revenue, concession fee and stakes in business performance, are measurable with the use of alternative profit criteria.