

Checks on revalidation will be necessary throughout BiH

The agencies engaged in Property Legislation Implementation (PLIP) emphasise the need for checks on revalidation of contracts of use of apartments by temporary users throughout BiH. The housing authorities responsible for applying the criteria set out in the High Representative's October 1999 amendments have failed to do so. Therefore, it is vital that Public Defenders review this process in order to ensure the protection of public interests.

Although the criteria for revalidation set out in the Entity property laws could benefit from further clarification, under the law the following groups are barred from revalidation;

- People who failed to claim, withdrew their claim, or failed to request enforcement of decisions on pre-war property;
- Multiple occupants;
- Temporary occupants who sold or exchange their own pre-war property; and
- People given free assistance by public authorities in building or purchasing housing, including through allocations of socially owned land.

We believe that there may be thousands of cases of illegal revalidation and many of them may have already led to illegal privatisation. Where unclaimed apartments are illegally privatised, they are made unavailable for use as alternative accommodation, as required by law. Where claimed apartments are illegally privatised, the right of the pre-war occupancy right holder to repossess the apartment may be delayed by years.

It is imperative that Public Defenders throughout BiH work with the housing authorities to review all past revalidations and check new revalidations. Where illegal revalidations are found, they should be revoked. Where an illegal privatisation has resulted, the public defender must initiate a lawsuit to annul the purchase and an eviction of the illegal occupant may follow. Housing officials who are wrongly revalidating contracts in violation of the property laws can be sanctioned either by entity or canton administrative inspectors, which may result in suspension or other disciplinary measures. Equally these officials may face action from public prosecutors for breaching the property laws. The PLIP agencies expect the competent authorities to fully investigate all alleged cases of illegal revalidation and privatisation.

The process of checking revalidations will be very difficult. There are credible reports of serious corruption involving revalidation by high-level politicians. Public prosecutors throughout BiH will also need to do their duty when the checks reveal evidence of criminal acts. Despite the fact that revalidation checks have not yet begun throughout the country, the PLIP organisations have anecdotal evidence of the following:

- Public defenders being threatened by those who have illegally revalidated;
- Public defenders who, themselves, live in illegally revalidated apartments;
- Temporary occupants who managed to illegally revalidate first by bribing the pre-war occupancy right holder to withdraw their claim and then by bribing the housing authorities;
- Temporary occupants who were so confident that they would be able to stay in their illegally revalidated apartments that they did not bother to claim their own pre-war apartment.