

High Representative suspends Application of the RS Law on the Privatisation of State Owned Apartments

The High Representative, Wolfgang Petritsch, has issued a Decision that suspends the application of the Republika Srpska (RS) Law on the Privatisation of State Owned Apartments.

This law was enacted by the RS National Assembly and published in the RS Official Gazette on 25 April 2000. Had the High Representative not taken such action the law would have become applicable in the Republika Srpska on 25 July 2000.

Despite the fact that representatives of the Office of the High Representative held numerous meetings with officials from the Ministry of Urban Planning and outlined discriminatory or otherwise unacceptable provisions in the draft law, the Privatisation Law that emerged from the National Assembly remains riddled with provisions that are patently at variance with Annex VII of the Dayton Peace Agreement, contradictory to other laws of the Republika Srpska and economically myopic.

Examples of some of the flaws in the law are the following: the law states that persons who fail to purchase their apartments one year after the implementation date of the law will become tenants for good and have no longer the chance to purchase their apartments. Given the notoriously slow rate of property law implementation in the Republika Srpska, it is conceivable that only a small number of refugees and displaced persons would return within one year and benefit from the law by being allowed to purchase their apartments. The vast majority of these refugees and displaced persons would not have this chance.

The law provides that former owners of apartments that were nationalised will have these apartments returned to them. This is contrary to the Republika Srpska's recently enacted Law on Restitution of Confiscated Property and Compensation, which allows these occupancy right holders to purchase these apartments; the former apartment owners would receive compensation.

Lastly, the law depreciates the purchase price of apartments at a rate of 1% per annum. This is reasonable. However, one provision of the law would grant that same depreciation rate for newly built apartments on the tops of existing buildings. Thus, these fortunate and often influential new apartment owners could receive a 60% reduction in the purchase price of their apartment if the new apartment were built on a sixty-year-old building. While this would certainly provide benefits to these fortunate individuals who are able to obtain government authorisation for the construction of these new apartments, it certainly has the appearance of impropriety and economic recklessness.

OHR experts will soon meet with representatives of the RS Government to further discuss the law. The OHR is hopeful that the Republika Srpska's National Assembly will review these matters and make appropriate amendments to the law so that it is in line with the principles of the Dayton Peace Agreement and economic feasibility.