Decision On Establishment Of The Commissions For Control Of Concluded And/Or Revalidated Contracts On Use Of Apartments

In the exercise of the powers vested in me by Article V of Annex 10 (Agreement on Civilian Implementation of the Peace Settlement) to the General Framework Agreement for Peace in Bosnia and Herzegovina, according to which the High Representative is the final authority in theatre regarding interpretation of the said Agreement on Civilian Implementation of the Peace Settlement; and considering in particular Article II.1(d) of the last said Agreement, according to the terms of which the High Representative shall "Facilitate, as the High Representative judges necessary, the resolution of any difficulties arising in connection with civilian implementation";

Recallingparagraph XI.2 of the Conclusions of the Peace Implementation Conference held in Bonn on 9 and 10 December 1997, in which the Peace Implementation Council welcomed the High Representative's intention to use his final authority in theatre regarding interpretation of the Agreement on the Civilian Implementation of the Peace Settlement in order to facilitate the resolution of any difficulties as aforesaid "by making binding decisions, as he judges necessary" on certain issues including (under sub-paragraph (c) thereof) "measures to ensure implementation of the Peace Agreement throughout Bosnia and Herzegovina and its Entities";

Recalling further Article I:1 of the said Annex 10, referring

explicitly to the promotion of respect for human rights and the return of displaced persons and refugees;

Consideringthe emphasis placed by the Peace Implementation Council on accelerating refugee return and on ensuring full and non-discriminatory implementation of the property laws of Bosnia and Herzegovina;

Considering further the need to ensure scarce housing resources are allocated by the competent housing authorities pursuant to the relevant property legislation, thus allowing timely implementation of the property laws while providing housing care to those individuals whose housing needs are not otherwise met;

Noting that the Ministry for Physical Planning and Environment of the Federation of BiH has issued the *Instruction on the Procedure of Determination of the Temporary User's Right to Revalidate a Contract on the Use of the Apartment and On the Procedure of Control of the Revalidated Contracts On Use of Apartments* (FBiH OG 15/02), which establishes the procedures for future revalidations and control of contracts on use of apartments;

Noting further that, by separate Decision No. 156/02 imposed by the High Representative on 22 May 2002, the *Instruction on Procedure of Review of Concluded and/or Revalidated Contracts on Use of Apartments*, which will establish the procedures for reviewing revalidations of contracts on use of apartments which have already taken place, will be put into force;

Taking into account my DecisionNo. 128 from 4 December 2001 (Official Gazette of FBiH 56/01);

Having considered and borne in mind all the matters aforesaid, I hereby issue the following:

DECISION

ON ESTABLISHMENT OF THE COMMISSIONS FOR CONTROL OF CONCLUDED AND/OR REVALIDATED CONTRACTS ON USE OF APARTMENTS

Article 1

By this Decision is established the authority to establish Commissions for Control of Contracts on Use of Apartments Concluded and/or Revalidated after 1 April 1992 (hereinafter: the Commissions), but prior to the entering into force of the *Decision on Amendments to the Law on the Cessation of Application of the Law on Abandoned Property* (Official Gazette of the FBiH, No. 56/01, hereinafter: the Law) came in effect.

The composition, scope of work and other working issues related to the Commissions shall be regulated by the Decision No. 156/02) *Instruction on Procedure for Review of Concluded and/or Revalidated Contracts on Use of Apartments* imposed by Decision of the High Representative on 22 May 2002.

Article 2

The following conclusion or revalidation of contracts on use shall be exempted from review by the Commissions and from the procedure to revalidate a contract on use of apartments in accordance with Article 18(c) of the Law:

1) contracts on use of apartments concluded with a user of an apartment who was the occupancy right holder to the same apartment prior to 1 April 1992, including situations where contracts on use were destroyed or are missing, or where the name of the allocation right holder or its housing community or fund has been changed;

2) contracts on use of apartments concluded or revalidated based on the transfer of an occupancy right after the death of a spouse where such spouse was the occupancy right holder of the same apartment prior to 1 April 1992.

Article 3

In cases where contracts on use are concluded and/or revalidated in contravention of the Law, and on the basis of such a contract the apartment has been privatised and registered in the relevant land book, the Federal Public Defender shall, within 60 days from identification of the violation, initiate procedures to cancel registration of the ownership right at the competent court.

Article 4

The competent authority shall be fined 1000 to 5000 KM for the following minor offences:

1. failure to establish the Commission within the deadline stipulated in the Instruction;

2. failure to submit the requested information in writing to the competent public defender or Commissions in accordance with the Instruction;

3. conclusion or revalidation of contracts on use in contravention of the provision of Article 18(c) of the Law.

The responsible person in the competent authority shall be fined 500 to 5000 KM for violation of paragraph 1 of this Article.

The competent public defender shall be fined 1000 to 5000 KM for the following minor offences:

1. failure to request information from the competent authorities in accordance with Instruction;

2. failure to initiate procedures before the court for cancellation of purchase contract signed on the basis of illegally concluded and/or revalidated contract on use of apartment;

3. failure to initiate procedures before the court for cancellation of ownership right registration in accordance with Article 3 of this Decision.

The application of administrative sanctions shall not relieve from criminal responsibility the responsible person in the competent authority for failure to perform official duty.

Article 5

This Decision shall be published without delay in the Official Gazette of the FBiH and shall enter into force on the date of such publication.

Sarajevo, 22 May

Wolfgang Petritsch

High Representative