

Decision amending the RS instruction related to the revalidation of contracts on the use of apartments concluded after 1 April 1992

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";

Recalling paragraph 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;

Considering the 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 implement in the most efficient and equitable manner legislation concerning repossession of property throughout Bosnia and Herzegovina, and to ensure that the same is undertaken in a harmonised manner in each Entity;

Noting that the *Instruction on Review of Legality of Contracts on the Use of Apartments Concluded and Revalidated After 1 April 1992 and On Procedure On Determining the Rights on Revalidation of Contracts On the Use of Apartments* was passed by the Ministry for Urbanism, Housing-Utility Affairs, Construction and Ecology and the Ministry for Displaced Persons and Refugees and gazetted in the Republika Srpska Official Gazette, No. 11/02;

Taking into account my *Decision on Lifting of a Temporary Freeze of Apartment Privatisations*;

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

DECISION ON FURTHER IMPLEMENTATION OF THE

Instruction on Review of Legality of Contracts on the Use of Apartments Concluded and Revalidated After 1 April 1992 and On Procedure On Determining the Rights on Revalidation of Contracts On the Use of Apartments

Article 1

The following conclusion or revalidation of contracts on use shall be exempted from review by the Commissions for Review of Legality of Concluded and Revalidated Contracts and for Determining the Right of the Temporary Occupant on Revalidation of Contracts on Use of Apartments (hereinafter: Commissions) established under the *Instruction on Review of Legality of Contracts on the Use of Apartments Concluded and Revalidated After 1 April 1992 and On Procedure On Determining the Rights on Revalidation of Contracts On the Use of Apartments*:

- 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 2

In cases where concluded or revalidated contract on use is voided pursuant to Article 27 of the Law on Cessation of Application of the Law on the Use of Abandoned Property (Official Gazette of the RS, Nos. 38/98, 12/99, 31/99 and 65/01, hereinafter: the Law), and on the basis of such a contract the apartment has been privatised and registered in the relevant land book, the competent public defender shall, within 3 months from identification of the violation, initiate procedures to annul such contract.

Article 3

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

1. failure to establish the Commissions within the deadline stipulated in the Instruction;
2. failure to submit the requested information in writing to the competent public defender in accordance with the Instruction;
3. conclusion or revalidation of contracts on use in contravention of the provision of Article 27 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 contract on purchase signed on basis of illegally concluded or revalidated contract on use of apartment.

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

Article 4

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

Sarajevo, 17 April 2002

Wolfgang Petritsch

High Representative