Decision Consisting Of Instructions On Documentation To Be Enclosed With The Request For The Purchase Of Abandoned Apartments In Accordance With Article 8b Of The Law On The Sale Of Apartments With Occupancy Right

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 property privatisation throughout Bosnia and Herzegovina, and to ensure that the same is undertaken in a harmonised manner in each Entity, subject only to such variations as may be necessitated by the differing models of privatisation in each;

Conscious of the vital need to ensure that such harmonisation is undertaken so as not to disadvantage returning Refugees and Displaced Persons, and so as to be in keeping with the spirit of Annex 7 of the General Framework Agreement for Peace in Bosnia and Herzegovina, and with the conclusions of the Teslic Property Conference, which set a deadline of 15 November for full harmonisation;

Further conscious that the Federation of BiH officials responsible for refugee and housing issues have been unable to reach agreement on the specific provisions necessary for

harmonisation as aforesaid, leading to considerable obstruction in privatisation by returning refugees and displaced persons;

Noting that the Ministry for Human Rights and Refugees of Bosnia and Herzegovina has requested action by the Office of the High Representative to harmonise Entity legislation on privatisation in order to safeguard basic human rights and expedite refugee return.

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

DECISION

CONSISTING OF INSTRUCTIONS ON DOCUMENTATION TO BE ENCLOSED WITH THE REQUEST FOR THE PURCHASE OF ABANDONED APARTMENTS IN ACCORDANCE WITH ARTICLE 8b OF THE LAW ON THE SALE OF APARTMENTS WITH OCCUPANCY RIGHT

Article 1

This Instruction shall regulate the proof of evidence that an occupancy right holder must provide with an application for privatisation. Such evidence shall prove the occupancy right holder has left accommodation occupied temporarily as a legal or illegal occupant, or that the occupancy right holder is not obliged, pursuant to the provisions set forth in the Law on the Cessation of the Application of the Law on Abandoned Apartments, to leave the accommodation currently occupied.

Article 2

The occupancy right holder who wishes to purchase a repossessed apartment and who had legally or illegally occupied property on a temporary basis shall, with a request

for purchase of the apartment, to enclose the Official Record proving that the occupancy right holder and all members of his family household have left such temporarily occupied property, and:

1. the keys have been provided to the relevant housing authority; or

2. the property has been sealed; or

3. the pre-war occupancy right holder has repossessed the property.

The Record must be verified and signed by the authorised person from the competent administrative authority.

Article 3

The occupancy right holder who, pursuant to the provisions set forth in the Law on the Cessation of the Application of the Law on Abandoned Apartments, is not obliged to vacate the accommodation s/he currently occupies, shall, with the request for purchase of the apartment, enclose one of the following documents:

1. A certificate from the competent municipal department verifying the individual was not occupying abandoned property; or

2. A lease contract or subtenancy contract concluded with the owner of the property in question, signed and verified by the court with territorial jurisdiction; or

3. A certificate of registered residence with family or

friends along with valid proof of the legal basis for their use of the property; or

4. A certificate of the competent department for displaced persons and refugees for a person accommodated in the collective or transit centre by which, along with submission of the certificate signed and verified by the head of the centre, is to be certified that s/he has left the centre in question.

In cases where an occupancy right holder cannot collect all required documents, the competent authority shall take into consideration statements submitted by the occupancy right holder concerned that are signed by at least two witnesses, provided that such statements are verified by the court under full financial and criminal responsibility.

Article 4

The occupancy right holder who resides or has resided outside of Bosnia and Herzegovina shall not be required to provide evidence that s/he has vacated property used on a temporary basis. For such purposes, it is sufficient to provide any documentary evidence on residence outside of Bosnia and Herzegovina during the relevant time period.

As an exception to the above, an occupancy right holder who resides or has resided in the Republic of Croatia shall, with a request for apartment purchase, enclose the following:

1. A certificate issued by the competent authority that s/he has vacated occupied property; or

2. A certificate issued by the competent authority that

s/he has not occupied property.

Article 5

If the request for the purchase of the abandoned apartment is to be filed by a member of the occupancy right holder's family household in accordance with Article 9 of the Law on the Sale of Apartments with Occupancy Rights, s/he shall, with his/her request, enclose evidence referred to in this Instruction relating to himself, the occupancy right holder and other members of the family household who had such status at the time of abandoning the apartment.

Article 6

At the request of the persons referred to in Articles 2 and 3 of this Instruction, the competent authorities shall issue the requested documentation without charging any fees for issuance of the documentation.

Article 7

The competent housing authorities are obliged to add a clause on enforceability on the decision for repossession of apartment as evidence the administrative procedure has been completed in accordance with the Law.

Article 8

If the occupancy right holder has filed a request for the purchase of the abandoned apartment without having enclosed adequate documentation as defined in this Instruction, the allocation right holder shall accept that request and request the applicant complete the application with adequate documentation.

Article 9

This Instruction shall be published without delay in the Official Gazette of the Federation of Bosnia and Herzegovina and shall come into force eight days after the date of such publication.

Sarajevo, 4 December 2001

Wolfgang Petritsch

High Representative

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