

Decision on Socially-Owned Land

The High Representative, Carlos Westendorp, yesterday issued a Decision suspending the power of authorities in both Entities to re-allocate and dispose of certain types of socially-owned land.

This Decision addresses the wide-spread misuse, re-allocation and sale of socially-owned land that was previously used by people who are now refugees and displaced persons and may wish to return. In many return areas, municipalities have re-allocated former agricultural land, or have demolished war-damaged housing in order to use the land differently. They have also re-allocated land that used to accommodate cultural and religious sites and private business premises.

Conducive conditions are necessary for the sustainable return of refugees and displaced people. In many cases, the current land re-allocation practice amounts to taking away their livelihood and cultural and religious heritage, which is in clear violation of Annex 7 of the Dayton Peace Agreement. The re-allocation and, in many instances unlawful sale of socially-owned land also threatens to undermine the processes of restitution and privatisation.

Following the Decision of the High Representative, municipalities are no longer allowed to re-allocate or dispose in any way of socially-owned property (other than apartments the use of which is regulated by separate laws), if on 6 April 1992 it was being used for residential, religious or cultural purposes, or for private agricultural and business activities. Any re-allocation decisions of this nature that were made since 6 April 1992 and affect the rights of refugees and displaced people, are null and void unless significant and lawful construction work has commenced.

The High Representative's Decision is a temporary suspension of the powers of municipal authorities to re-allocate socially-owned land. It freezes the situation until the legal framework governing the re-allocation of socially-owned land is reformed. The suspension will be in effect until 31 December 1999, but may be extended if the legal situation is not satisfactorily resolved by then. It does not apply to the territory of the District of Brcko.

The High Representative urges the Governments of both Entities to amend the legal framework regulating the use of land in order to bring it in accordance with Annex 7 and international human rights legal standards as well as prevent complications in the privatisation and restitution process.

The High Representative has taken this Decision after extensive research and consultation as to the problematic nature of the current legislation and the misapplication. He has taken the Decision with the full support of the Steering Board of the Peace Implementation Council (PIC), exercising the powers vested in him by Annex 10 of the Dayton Peace Agreement and by Article XI of the Conclusions of the PIC Conference held in Bonn in December 1997. His Decision is effective as of May 26, 1999, and shall be published in the Official Gazettes of the Entities.