

4 September 1995 Decree on the Temporary Takeover and
Administration of Certain Properties
GOVERNMENT OF THE REPUBLIC OF CROATIA

Pursuant to Article 1, paragraph 1, of the Law on the Powers of the Government of the Republic of Croatia to regulate by means of decrees certain issues that are within the remit of the House of Representatives of the Parliament of the Republic of Croatia (*Official Gazette* no. 79/94), the Government of the Republic of Croatia, at its session held on 31 August 1995, passed the following

**DECREE
ON THE TEMPORARY TAKEOVER AND ADMINISTRATION OF
CERTAIN PROPERTIES**

Article 1

This Decree governs the temporary takeover, use, administration, and supervision of property owned by physical persons specified in this Decree in order to protect it and safeguard creditors' claims pertaining to it.

Article 2

From the date this Decree comes into force, property in the previously occupied but now liberated areas of the Republic of Croatia and abandoned by its owners shall be placed under the temporary administration and use of the Republic of Croatia.

From the date this Decree comes into force, property situated in the territory of the Republic of Croatia owned by individuals who left the Republic of Croatia after 17 August 1990, property in the occupied area of the Republic of Croatia which is situated in the territory of the Federal Republic of Yugoslavia (Serbia and Montenegro), or in the occupied area of the Republic of Bosnia and Herzegovina, and which has not been used personally by the owners since the day they left, shall be temporarily administered by the Republic of Croatia.

As of the date of this Decree coming into force, property situated in the territory of the Republic of Croatia which is owned but not used by citizens of the Federal Republic of Yugoslavia (Serbia and Montenegro), shall be placed under the temporary administration and use of the Republic of Croatia under the terms of this Decree.

The provisions of this Decree shall not apply to property co-owned by citizens of the Republic of Croatia and non-Croatian citizens.

Article 3

Under the provisions of this Decree, the term property shall mean all moveable and non-moveable property, in particular the following:

- Farms, including residential buildings, outbuildings, land, and other accompanying immoveable and moveable (cattle and other farm animals, vehicles, tools, equipment, furniture, etc.).
- Dwellings with surrounding gardens, apartments (hereinafter referred to as apartment buildings), including furniture and other moveable assets in them,
- Business buildings and business premises, as well as other immoveable property (such as garages, sheds, storage houses, etc.), including furniture and other moveable assets in them,
- Vehicles, /sailing/ vessels, tools, machines, etc.

Article 4

Possession of the property which under this Decree comes under the temporary administration of the Republic of Croatia, shall be broken up by the municipality or town, or the City of Zagreb (hereinafter referred to as the municipality or the town) in which the property is located.

The municipal or town government shall set up a commission for temporary takeover and use of the property (hereinafter referred to as the Commission), which shall take an inventory of the property and exercise other powers as stipulated by this Decree. The inventory shall be forwarded to the Ministry of Development and Reconstruction to be entered into its property records.

The following shall be appointed to the Commission referred to in Paragraph Two of this Article: one representative each from the Ministry of Development and Reconstruction, Ministry of Reconstruction, Ministry of the Interior, Ministry of Labour and Social Welfare, Ministry of Agriculture and Forestry, Office of the Government of the Republic of Croatia for Expelled Persons and Refugees, the Public Legal Office, the municipal or town government, as well as other representatives if necessary. The chairman of the Commission shall be nominated in the founding act of the Commission.

The municipality and/or town is entitled to establish more than one commission referred to in Paragraph 1 of this Article.

Article 5

The Commission referred to in Article 4 herein may allocate the property referred to in Article 2 herein to expelled persons, refugees, returnees whose property was destroyed or damaged during the Homeland War, to the disabled of the Homeland War, to the families of dead and missing Croatian defenders of the Homeland War and other citizens involved in activities essential for the security, reconstruction and development of the previously occupied areas, to have and to use the said property.

A complaint may be filed with the Ministry of Justice against the Commission's decision within eight days. The complaint shall not stay the execution of the decision.

When allocating property to have and use, a record shall be made of the condition of the property in question and the entering into the possession thereof.

Article 6

The work of the Commission referred to in Article 4 herein shall be directed and coordinated by the Ministry of Development and Reconstruction. If necessary, the Minister for Development and Reconstruction may issue guidelines for the implementation of this Decree regarding the property and the persons to whom the property is allocated to have and use.

Article 7

The persons who, under the provisions of Article 5 herein, have been allocated the property referred to in Article 2 herein to have and use, shall manage the property with the due care of good husbandry. In protecting the property from third parties they shall enjoy all the prerogatives of an owner, and may utilize any income generated by the property for their own needs.

The persons mentioned in Paragraph One of this Article are not allowed to dispose of the real estate which constitutes a part of the property (i.e. sell, exchange, lease, rent, make it available for use by paying or non-paying parties, or encumber it with a mortgage or any other liability). They are not entitled to utilize vehicles or livestock without the approval of the Commission referred to in Article 4 herein.

Any legal transactions carried out in contravention of the provisions of Paragraph Two of this Article shall be considered null and void.

Article 8

While a property is under the administration of the Republic of Croatia, the owner shall not be allowed to dispose of it by selling, swapping, leasing, renting, making it available for use by paying or non-paying parties, or burdening it with a mortgage or any other liability.

At the proposal of the Minister of Justice, the Government of the Republic of Croatia may exempt certain properties from the ban on their disposal in order to provide the carrying out of legal transactions entitling citizens of Croatia or native Croats to acquire ownership of the property on humanitarian or other justifiable grounds.

Any legal transactions carried out in contravention of the provisions of paragraph one of this Article shall be considered null and void.

Article 9

The Commission referred to in Article 4 herein may quash the decision referred to in Article 5 herein if the person or persons allocated the property to have and use:

- Do not exercise due care of good husbandry in managing the property
- If an opportunity arises for them to return and use their own property, /?or if they/ run the property in contravention of the provisions of this Decree.

Article 10

If the owner of the property referred to in Paragraph One of Article 2 herein returns to the Republic of Croatia within 30 days of this Decree coming into force and seeks restitution, the Commission referred to in Article 4 of this Law /as written/ shall quash the decision referred to in Article 5 herein.

The property owner, the person to whom the property has been allocated to have and to use, or the Public Legal Officer, may lodge an appeal within eight days with the Ministry of Justice against the Commission's decision to quash the decision referred to in Article 5 herein.

The person whose right to have and use the property has been revoked by the final decision referred to in paragraph two of this Article cannot be deprived of it until he or she is guaranteed the possession and use of another suitable property.

Article 11

Ownership of the property referred to in Article 2 herein cannot be acquired by appropriation (occupation).

Article 12

The persons having and using the property referred to in Article 2 herein contrary to the provisions of this Decree shall have the property taken away on the basis of a decision taken by the Commission referred to in Article 4 herein.

This decision shall not be contested; however administrative proceedings may be instituted. The administrative decision shall be executed by the body that delivers it.

Article 13

Unless otherwise provided by this Decree, provisions of the Law on General Administrative Proceedings (*Official Gazette* no. 53/91) shall apply to administrative proceedings instituted under this Decree. Administrative proceedings Pursuant to this Decree shall be conducted summarily.

Article 14

Ownership of property placed under administration pursuant to the provisions of this Decree that has not been restored to its owner shall be governed by a separate law.

Article 15

The Minister of Justice is hereby authorised to set out rules for the implementation of this Decree, if necessary, except for the implementation of the provisions of Article 6 herein.

The Ministry of Justice shall oversee the implementation of this Decree.

Article 16

This Decree shall enter into force on the date of its publication in the *Official Gazette*.

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Zagreb, 31 August 1995

Prime Minister

Nikica VALENTIĆ