

Interpretative Judgment № 5/2014
of the Supreme Court of Cassation,
regarding the validity of authorization for disposal with property
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On 12.12.2016 the Bulgarian Supreme Court of Cassation (SCC), taking into account the conflicting jurisprudence, came out with an Interpretative Judgment regarding the question what should be the necessary information for the validity of an authorization for disposal with property (no matter real estate or movables).

Mandatory information

Analyzing the Bulgarian legislation and the achievements of the legal theory, the Supreme Court of Cassation states that a power of attorney for disposal of property should be deemed valid if it contains:

- The explicit and clear will of the person giving the powers for conclusion of a contract on his behalf by the authorized person;
- Clear individualization of the authorized person(s).

Other information

The power of attorney can also contain limitations regarding

- the type of agreements that could be concluded;
- the essential terms of the agreements;
- the individualization of the property or the price if it comes to sale agreement.

It has to be clear though, that the abovementioned information is not mandatory – the person giving the powers, can (but is not in any way obligated to) include such restrictions in order for the authorization to be valid. The authorization is an act of trust. It is up to the person, giving the powers, whether to set limitations on the powers vested with the power of attorney.

The Supreme Court of Cassation states that another argument for the validity of more general authorization, when it comes to disposal with property, is that many people grant powers of attorney because they do not have the time or the special knowledge to negotiate and finalize transactions. That is why they empower someone else to represent them. In fact, the Supreme Court of Cassation concludes that the authorization powers can consist in anything that is not in conflict with the legislation or the good manners.

Legal protection

In case that the person, granting the powers, is mistaken in choosing the right person to authorize and he has not set any limitations on the powers, there are protections provided by the legislator.

For example if the authorized person and the opposing negotiating party deliberately agree on something that is harmful to the person who has given the power of attorney, the concluded agreement will not take effect.

Nevertheless, these legal protections/remedies suggest a separate lawsuit. That is why if someone intends to dispose of his property by authorizing someone else to do it on his behalf, special attention should be paid about the content of the power of attorney and about the choice of the person entrusted with this task.
