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**Information Sheet on the Federation and Republika Srpska
Property and Housing Laws**
(12 February 1999)

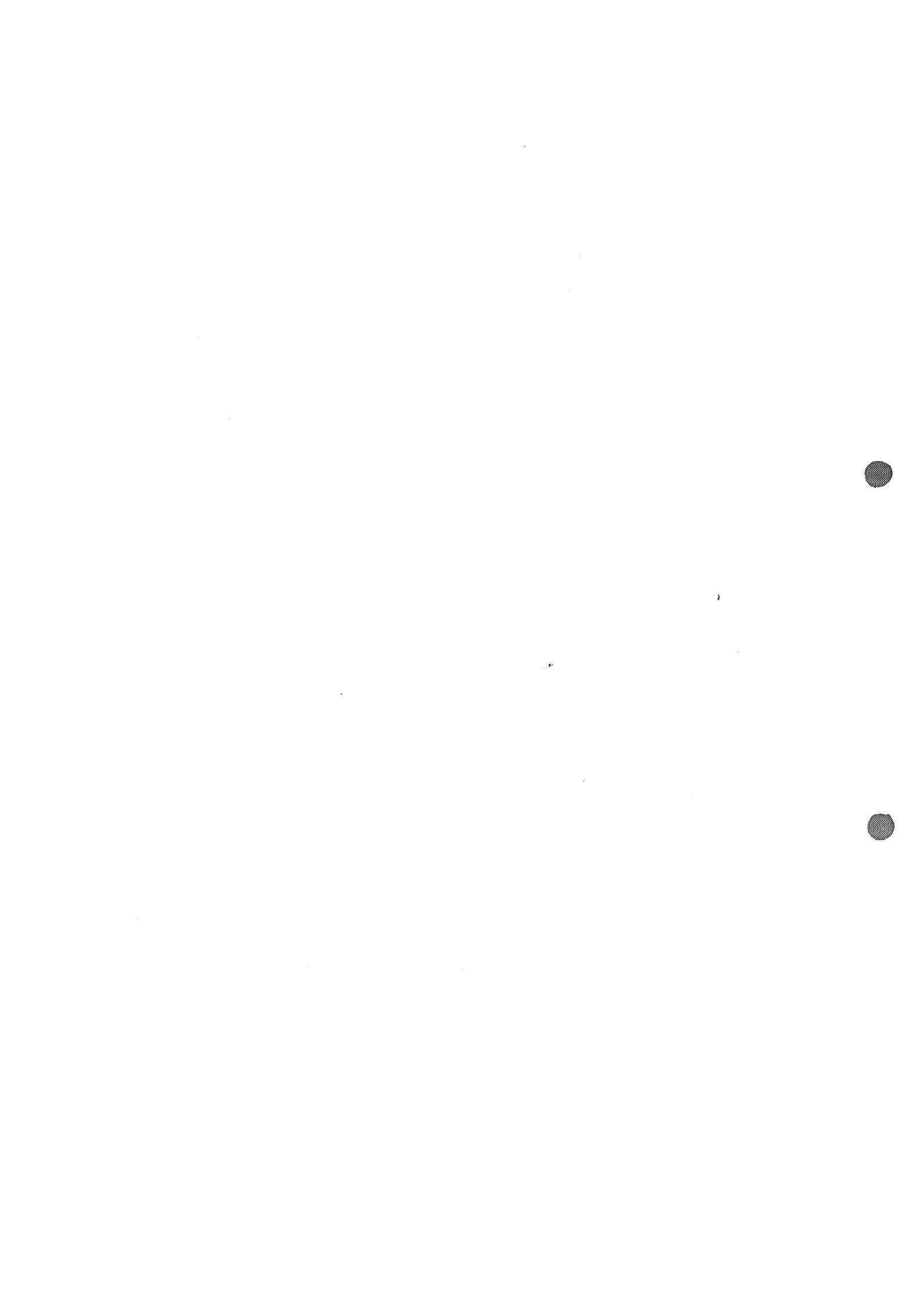
A. Federation Laws

The Law Regulating Application of the Law on Temporarily Abandoned Real Property Owned by Citizens

- This law applies only to private property.
- The law supersedes the *Law on Temporarily Abandoned Real Property Owned by Citizens*, which was introduced during the war and provided that if the owners of private property left after 30 April 1991, the authorities could declare the private property "abandoned" and grant temporary occupancy rights to a third party. Importantly, ownership rights were not permanently affected by the *Law on Temporarily Abandoned Real Property*, and the owner could return at any time and reclaim the property. However, the right of owners to reclaim their property was not effectively implemented under the law largely because it did not provide a realistic procedure for repossessing property and addressing the needs of current users.
- Under the new law, owners of private property may file a claim to reclaim their property at any time. The authorities must decide on such claims within 30 days. If the property is vacant, or occupied illegally, the owner may move in immediately following the decision on the claim. If the property is occupied by an authorised temporary user, the current occupant has 90 days to vacate the property. In exceptional circumstances, this deadline may be extended up to one year, but only if the authorities can demonstrate to OHR that other accommodation for the current occupants is not available.

The Law on Cessation of the Application of the Law on Abandoned Apartments

- This law applies to "socially-owned" apartments, i.e. apartments for which persons were given occupancy rights by companies, governmental organs, or social organisations. Occupancy rights were subject to substantial regulation before the war, in particular under the *Law on Housing Relations*.
- During the war, the *Law on Abandoned Apartments* was introduced. This law permitted the authorities to declare socially-owned apartments whose occupants had left as





"abandoned," and to grant temporary occupancy rights to the apartment to other persons. On 22 December 1995, the law was amended so that if people did not claim and re-occupy their apartment by 6 January 1996, their apartment was declared permanently abandoned and could be permanently reallocated to a new occupant. This law blocked the return of tens of thousands of refugees and displaced persons to their pre-war homes.

- Under the new law, all decisions terminating the occupancy rights of refugees and displaced persons are null and void. Pre-war occupants, or their authorised representatives, must file claims for repossession of their apartment. Instructions will soon be issued which will clarify the procedures to be followed in filing claims.
- Claims to repossess socially-owned apartments must be filed by 4 April 1999.¹ The claim must contain an intended date of return which must be within one year of the date the claim is submitted. *Pre-war occupants who do not file their claims within the deadline, or who fail to return within one year of the date a decision on their claim is made, face permanent loss of their occupancy rights.*
- The authorities must issue a decision within 30 days of the date a claim is filed. These decisions will confirm pre-war occupancy rights, terminate rights of temporary use of the apartment, and set a deadline by which the current user of the apartment must move out. As there are different categories of current users of apartments, and some apartments are vacant or uninhabitable, this time period will vary:
 - ⇒ if an apartment is vacant or occupied illegally, the pre-war occupant can repossess the apartment immediately;
 - ⇒ an authorised temporary user will be given 90 days to vacate the apartment which can be extended if the pre-war occupant's nominated return date is later;
 - ⇒ if the apartment is occupied by a person who has received a permanent occupancy right prior to 7 February 1998, the Law provides that the case should be referred for an additional decision concerning whether the pre-war occupant should be allocated a different apartment, allowing the current occupant to remain in place. This decision must be made according to specific criteria which comply with Annex 7 of the Peace Agreement and the European Convention on Human Rights and Fundamental Freedoms and its Protocols. However, decisions in these cases are currently suspended pursuant to a decision by the High Representative of 5 November 1998.
- Authorised users of apartments must be provided with alternative accommodation by the responsible authorities within the time period set by the law for repossession of the apartment by the pre-war occupant.

The Law on Taking Over the Law on Housing Relations

- This law also applies to "socially owned" apartments, and simply amends the *Law on Housing Relations*, a pre-war statute that regulates use of housing with the occupancy right. Under the *Law on Housing Relations*, an occupancy right can be cancelled when the occupant has not resided in the apartment for a continuous period of six months, except in

¹ The Law provides a six-month deadline, originally 4 October 1998, but by a decision of the High Representative in August 1998, the deadline was extended for further six months.

certain limited circumstances (e.g. the occupant is serving in the military or undergoing medical treatment).

- The amendment provides that occupancy rights cannot be cancelled automatically for failure to use an apartment since 30 April 1991, if the occupancy right holder is a person with the right to return under Annex 7. The amendment also provides that persons who left their apartments after 30 April 1991 are presumed to be refugees and displaced persons under Annex 7, absent a showing that they left their apartments for reasons wholly unrelated to the conflict. These persons must still meet a deadline to file a claim, either under this law or under the Law on the Cessation of the Application of the Law on Abandoned Apartments.
- An amendment is currently being considered for adoption by the Federation Parliament which will terminate all court proceedings currently underway, and cancel all court decisions based on the provisions of this Law which were rendered since 1 April 1991 and which terminated the use of contracts on apartments. This amendment would render all proceedings for those whose contracts were cancelled in this way to the administrative procedure (claims will be dealt with under the Law on the Cessation of the Application of the Law on Abandoned Apartments).

Purchase of Apartments with the Occupancy Rights (Privatisation)

- The Law on Sale of Apartments with the Occupancy Rights came into force on 6 December 1997, and provides that applications to purchase socially-owned apartments under the Law could be filed from 6 March 1998. However, under an amendment to the law adopted on 4 March 1998, persons who acquired occupancy rights to apartments that were declared "abandoned" since 1991, are not permitted to purchase the apartments in which they now reside. This amendment does not affect occupancy right holders who never left their apartments.
- At the same time, under the *Law on the Cessation of Application of the Law on Abandoned Apartments*, pre-war occupants who left their apartments during the war will not be able to purchase their apartments until they have returned and resided in the apartment for six months. In addition, such pre-war occupants will not be permitted to sell the apartment for a period of five years from the date the purchase of the apartment is registered. On 5 November 1998, the High Representative suspended the sale of apartments for new occupancy right holders, pending a review of the property and housing legislation, as well as administrative processes.

B. Republika Srpska Laws

The Law on the Cessation of Application of the Law on the Use of Abandoned Property

- The *Law on the Cessation of Application of the Law on the Use of Abandoned Apartments* applies to both private property (Articles 3 to 13) and socially-owned property (Articles 14 to 23). It essentially mirrors the provisions of the Federation Laws.
- The law supersedes the *Law on the Use of Abandoned Apartments*, which was introduced in 1996 (after the signing of the General Framework Agreement for Peace). The 1996 law placed unacceptable conditions on repossession of the housing units. For example,

repossession was only possible where the current temporary occupant left voluntarily or alternatively, if the owner paid to the current occupant compensation for the property that the current occupant lost in the other Entity or on the provision of a corresponding flat or property, or under negotiations for fair reimbursement between the Entities and the Republic of Croatia. Given these conditions, repossession was virtually impossible.

- Like the Federation Law, the RS Law on Cessation allows owners of private property (but also possessors and users) to file a claim for repossession at any time. Similarly, the authorities must decide on such claims within 30 days. The claim is to be filed with the responsible body of the Ministry of Refugees and Displaced Persons (the OMD) in the municipality in which the real property is located. If the property is vacant, or occupied illegally, there are no administrative obstacles to the owner's immediate repossession. If the property is occupied by an authorised temporary occupant, a decision cannot require that occupant to vacate the property shorter than 90 days from the date of the decision. In circumstances where there is a lack of available accommodation the deadline may be extended up to one year.
- For socially-owned apartments, claims must be submitted before 19 June 1999 or the occupancy right holder permanently loses her/his right to the apartment. The same provisions apply to socially-owned apartment as to private property relating to deadlines for repossession and eviction, alternative accommodation and making of decisions. However, where an occupancy right holder fails to reoccupy the apartment without justified cause within one year from the date of the decision, s/he shall lose his or her occupancy right. A justified reason includes where the occupancy right holder has initiated enforcement procedure, has a justified fear of persecution, army drafting, admitted to medical care, or in an old people's home, etc. or serving a period of imprisonment or if an apartment is subject to a claim with CRPC.

The Law on Amendments to the Law on Housing Relations

- Like the Federation, the Law on Housing Relations of the former Bosnia and Herzegovina was taken over by the RS. That Law regulates the use of socially owned apartments by the users thereof. In October 1993, amendments to that Law were proclaimed. In essence, these amendments gave the power to allocation right holders to transfer an occupancy right holder from one apartment to another, smaller apartment based on a comparison of family members. Municipal bodies were given power to make decisions in this regard where an occupancy right holder refused to accept the decision of the allocation right holder. This was so-called rationalisation of housing space and was implemented by companies as early as July 1992 illegally on the basis of an Executory Board decision in Banja Luka. The persons affected by this amendment were mainly minorities. The RS Government are currently awaiting the next parliamentary session to table amendments to this law.

[Published in the RS Official Gazette, no. 1/99]

Based on Article 29 of the Law on Cessation of Application of the Law on Use of Abandoned Property (RS Official Gazette, no. 38/98), the Minister for Refugees and Displaced Persons passes the

INSTRUCTION

on the application of Articles 8 through 11 and 15 through 18 of the Law on the Cessation of the Application of the Law on Use of Abandoned Property

1. This Instruction shall regulate the procedure for submission of claims for property repossession by owners, possessors, i.e. users and the procedure for return of apartments to the occupancy right holders in accordance with Articles 8 through 11 and 15 through 18 of the Law on the Cessation of the Application of the Law on Use of Abandoned Property.
2. Return of property to owners, possessors, i.e. users
 - 2.1. The owner, possessor, i.e. user (hereinafter referred as: the Claimant) of the property which was abandoned after April 30, 1991, regardless of whether the property has been proclaimed abandoned, shall submit a claim for repossession of property to the responsible body of the Ministry for Refugees and Displaced Persons in the municipality in the territory in which the real property is located (hereinafter referred as: the responsible body of the Ministry).
 - 2.2. A claim shall be submitted in writing, signed by the Claimant or a proxy or verbally by the Claimant or an authorized representative. The claims made in writing may be submitted in person or by mail or by any other person. An authorization for another person submitting the claim is not necessary for a claim which has been signed by the Claimant. The claim shall be submitted in the form I for repossession of property by owners, possessors and users (hereinafter: Form I) which is an integral part of this Instruction. The responsible body of the Ministry shall receive and pass decisions also on the claims which are not submitted on the prescribed Form.
 - 2.3. The claim shall be submitted in two copies, and the owner's right to submit the claim for property repossession shall not become obsolete.
 - 2.4. The responsible body of the Ministry, upon the receipt of the claim, shall verify both copies with the date and a stamp and return one copy to the Claimant or his/her proxy or an authorized representative. In cases where the claim was sent by mail, one copy of the verified claim will be returned by mail to the address of the Claimant or his/her authorized representative.

2.5. The claim shall include information on the Claimant, her/his present address, information on real property, i.e. evidence possessed by the Claimant indicating that the Claimant is the owner, possessor, i.e. user of the real property, and the date when the Claimant intends to return and repossess the property.

2.6. The Claimant or his/her authorized representative shall enclose, along with the claim, the original or a copy of one of the following documents:

- a/ land registry slip
- b/ title-deed
- c/ court decision (on inheritance, gift, etc.)

2.7. Within the deadline foreseen by the Law, the responsible body of the Ministry shall:

- a) confirm the right of the Claimant to the real property which is subject to repossession,
- b) confirm the status of the real property (inhabitable, vacant, occupied),
- c) confirm the status of the temporary user (illegal user or a user on the basis of a temporary decision),
- d) pass the decision pursuant to Article 11 of the Law. The decision shall be delivered to the Claimant and the temporary user within 8 days from the day of its issuance.

3. Return of apartments to the occupancy right holders

3.1. The claim shall be submitted by a person who was the occupancy right holder at the time when the apartment was proclaimed abandoned property or by a member of his/her family household, as regulated under Article 6 of the Law on Housing Relations (hereinafter referred to as: the Claimant). The claim can be submitted also by an authorized representative of the Claimant. The claim shall be submitted within 6 months from the day of the Law's entry into force.

3.2. The claim shall be submitted in the form II for claiming the repossession of the apartment that one has occupancy rights to (hereinafter referred as: Form II), which is an integral part of this Instruction. The responsible body of the Ministry shall also receive and pass decisions on the claim which was not submitted on the prescribed Form.

3.3. The form shall be submitted in two copies.

3.4. The responsible body of the Ministry, upon receipt of the claim, shall protocol both copies, verify them with a stamp and return one copy to the Claimant or her/his authorized representative. The claim shall be submitted in writing signed by the Claimant or his/her proxy, or verbally by the Claimant or his/her proxy. Claims in writing can be submitted in person, by mail or can be submitted by another person. Authorization for another person is not necessary for submission of the claims signed by the Claimant. In cases where the claim was submitted by mail, one copy of the verified claim will be returned by mail to the address of the Claimant or the authorized representative.

- 3.5. The claim shall contain the name, surname and the current address of the Claimant, the name, surname and the address of the occupancy right holder, the address of the apartment the claim is submitted for, the name of the allocation right holder (if known), the date of intended return and the statement that the Claimant, at the time of proclaiming the apartment abandoned, was the occupancy right holder or a member of the family household of the occupancy right holder.
- 3.6. The Claimant or the authorized representative shall submit, along with the claim, an original or a copy of one of the following documents:
- a) the contract on use of the apartment,
 - b) the contract on exchange of the apartment,
 - c) the court decision confirming the occupancy right,
 - d) the decision of the responsible administrative body which replaces the contract on use of the apartment.
- 3.7. Within the deadline foreseen by the Law, the responsible body of the Ministry shall:
- a) confirm the status of the occupancy right holder or a member of his/her family household to the apartment stated in the claim,
 - b) confirm the status of the apartment (inhabitable, vacant, occupied),
 - c) confirm the status of the current tenant (illegal user, temporary user, user-occupancy right holder),
 - d) issue a decision pursuant to Article 18 of the Law.
The decision shall be delivered to the Claimant, the current user and the allocation right holder within 8 days from its issuance.
4. The responsible body of the Ministry shall accept all claims regardless of whether or not supporting documentation is supplied by the Claimant. In the event that the Claimant is not able to provide the appropriate supporting documentation, the responsible body of the Ministry shall check the records with the relevant court or administrative body as well as other available documentation in order to confirm the rights of the owner, possessor, i.e. user and occupancy right holder.
5. The responsible body of the Ministry shall accept any identification document issued by the state of BiH or the administrative body in the Entities, as well as any other document that confirms the identity of the Claimant. The Claimant shall be fully exempted from taxation, as well as from all other expenses of the procedure pursuant to the Law on General Administrative Procedure. In cases where the claim was submitted by mail or by any other person, the Claimant is obliged to submit a copy of his/her identification document. It is enough to submit any copy which can confirm the Claimant's identity.
6. The person who has submitted the claim in compliance with the previous regulations, in cases where the claim has not yet been validly resolved, should submit a new claim in line with this Instruction.

If such person does not submit a new claim, her/his previously submitted claim shall be considered as a claim submitted in accordance with the provisions of the Law on Cessation of Application of the Law on Use of the Abandoned Property and this Instruction.

If the previously submitted claim is not completed in accordance with the provisions of the Law, the Claimant shall be requested to enclose the supplementary data prescribed by the Instruction.

7. If a person has earlier submitted the claim to the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC), BiH Ombudsperson to BiH or to the Ombudsmen of the Entities, then s/he must submit the claim for repossession of the apartment to the responsible body of the Ministry in the municipality where s/he was the occupancy right holder. However the claim for repossession of the occupancy right which was submitted to the CRPC before the expiry of the deadline from Article 16 of the Law shall be considered as the claim which was submitted in line with provisions of the Law and the Instruction. The CRPC's decision to recognize the right to repossess a property or to an occupancy right shall be final and binding and shall be implemented by a competent body in a municipality in which the property or the apartment are located in line with the Law on General Administrative Procedure, upon the Claimant's claim.
8. This Instruction shall regulate application of Article 2 as well as Articles 13 and 23 of the Law.
In case of conflict between Paragraphs 1 and 3 of Article 2 of the Law on Cessation of Application of the Law on Usage of Abandoned Property, there shall be applied Paragraph 3 of Article 2 of the Law.
Application of provisions of Article 13 Paragraph 2 and Article 23 Paragraph 2 of the Law is related only to the procedure which, in the same factual and legal situation, the party initiated with the competent body of the Ministry and before the Commission for Real Property Claims of Displaced Persons and Refugees, as long as the Commission does not pass the Decision on basis of the claim.
9. This Instruction shall enter into force on the day of its publication in the "RS Official Gazette".

MINISTER

Miladin Dragicevic



HOW TO CLAIM REPOSSESSION OF YOUR PRIVATE PROPERTY IN THE REPUBLICA SRPSKA

Property Information Sheet No. 5a. - 10 February 1999

On 19 December 1998 the Republika Srpska *Law on Cessation of Application of the Law on the Use of Abandoned Property* (the 'Law') came into force. The Law creates an administrative procedure for refugees and displaced persons to claim repossession of socially-owned apartments with an occupancy right and private property which is located in the Republika Srpska, and abandoned after 30 April 1991.

This information sheet explains the essential aspects of the procedure for reclaiming private property. Further information can be found in the Law and the official Instruction of the Republika Srpska Ministry for Refugees and Displaced Persons (published in the Republika Srpska Official Gazette on 21 January 1999).

Under the new Law, claims must be filed for the repossession of private property. There is no deadline for filing claims for private property.

For people wishing to claim apartments, it is important to note that claims must be filed by 19 June 1999.

• Who can claim?

Claims for private property should be filed by the owner/possessor/user. Private owners/possessors/users can appoint a proxy (*punomoćnik*) or authorised representative (*ovlasteni predstavnik*) with power of attorney to sign and file a claim on their behalf. Both the proxy and the authorised representative must have an authorisation called a power of attorney (in Bosnia and Herzegovina, this authorisation must either be sealed by a Court or administrative body; if abroad, the power of attorney or authorisation must be sealed by the Bosnian Diplomatic Office).

• Where and How to file?

Claims must be filed with the department of the Republika Srpska Ministry for Refugees and Displaced Persons in the municipality in which the property is located (see the attached list of addresses). They are the 'responsible' body according to the law. This can be done in person, or by mail.

Claimants can use the claim form for private property which was prepared and issued by the Republika Srpska Ministry for Refugees. Copies of the form can be

¹ Information Sheet No. 5 b provides detail on the claims process under the Law for claiming socially-owned apartments on the territory of Republika Srpska

obtained in Bosnia and Herzegovina from the Federation Municipal Information Offices (MROs), RS Departments of the Ministry for Refugees and Displaced Persons (OMIs), Information/Legal Aid Centres, International Organisations (OHR, UNHCR, OSCE, UNMIBH), or from DP Associations. Although it is not compulsory to use the standard Claim Form, it is strongly recommended so that the claim will be more easily processed.

Two copies of the claim form should be filled in; the responsible body will take one copy and must stamp the other copy and return it to the claimant or her/his authorised representative. If the claim form has already been signed by the claimant, anyone can submit the form on their behalf. In this case, an authorisation is not necessary. Claims can be filed by mail; either registered mail, (*preporučeno*), or registered mail with reply, (*povratnica*) is recommended. The mail receipt should be kept as proof of postage. If supporting documents are attached, then it is advisable to list the contents of the package on the mail receipt. The competent body must return a stamped copy of the claim form by mail to the claimant or their representative as proof that the claim has been filed in a valid way.

• What information?

Your claim must contain the following information:

- personal data of the owner/possessor/user, which should include: name/surname, status of claimant, (owner/possessor/user);
- data and address relating to claimed property, including date the ownership right was obtained;
- contact address and details of claimant or authorised representative where necessary;
- the date of intended return to the claimed property (this date is not binding, but must be within one year from the date of the claim);
- signature of the claimant, or her/his authorised representative.

• What documents?

The information listed above should be sufficient for a claim to be processed. The competent body must accept the claim and is not allowed to request any further information or documents concerning the property right; they are under an obligation to obtain any necessary additional documentation from relevant administrative

bodies or courts themselves. However, where possible it is advisable for the claimant to attach a copy of any documents which support the claim. Documents submitted to support a claim for private property may include:

- a) land registry slip;
- b) title-deed; OR
- c) court decision confirming the rights (decision on inheritance, gift etc).

Alternatively, if any of these documents cannot be provided, other supporting documentation which shows that the claimant was the owner/possessor/user at the time it became abandoned, may also be attached (e.g. registration of residence at the claimed apartment; statements of witnesses; utility bills).

• **Do claimants have to prove their identity?**

Yes. A claimant must show an identification document. The competent body must accept any identification document issued by the State of Bosnia and Herzegovina or an administrative body in the Federation or Republika Srpska, as well as any other document that confirms identity (for example driving license, SFRY documents). If the claim is filed by mail or by another person, then a photocopy of the claimants identification document must be attached to the claim.

• **Previous claims**

If a claim was filed under the old Law on Use of Abandoned Property (before December 1998) but no final decision was made, or a decision was rendered with which the claimant was not satisfied, the owner/possessor/user should file another claim in accordance with the new Law and Instructions.

If a decision in favour of the claimant has already been received but has not been enforced, the claimant does not have to file a new claim for repossession of the property, but should file a request that the decision be enforced.

If a claim was previously filed with the Commission for Real Property Claims for Displaced Persons and Refugees (CRPC) for a property in the Republika Srpska, the claimant is entitled under the new Law to file a new claim with the responsible body of the Republika Srpska Ministry for Refugees and Displaced Persons in the municipality where the property is located. However, it is not necessary under the new Law to file a new claim. The original claim filed with CRPC will be deemed to be a valid claim under the Law. CRPC will issue a decision on the claim in due course. If a pre-war owner/possessor/user has not previously filed a claim with the CRPC, s/he is entitled to file a claim with the CRPC at any time.

If an application was previously filed with another body, for example the Ombudsperson for Human Rights or the Human Rights Chamber, then a pre-war owner/possessor/user must submit a new claim to the municipal department of the Republika Srpska Ministry for Refugees and Displaced Persons according to the new Law.

- **Does a claim for repossession have to be filed under the new law even if an Application for Voluntary Return has already been submitted?**

Yes, a separate claim must be filed for the return of private property even if the claimant has submitted an "Application for Voluntary Return of Displaced Persons and Repatriates". The Application for Voluntary Return does not automatically entitle the claimant to repossess his/her home. Rather, the Application for Voluntary Return provides current details relating to the applicants' home.

• **REMEMBER:**

- * It is not possible to tax claims.
- * The authorities are not allowed to levy any taxes or administrative fees relating to the claims process.
- * There is no deadline for filing claims for private property and no time limit for return to the property.
- * The authorities must decide on the claim within 30 days of receiving it, and must deliver the decision on the claim within 8 days to the claimant or authorised representative.

Further information

More information and advice about the claims process, and the subsequent steps in the procedure, can be obtained from legal aid centres, advisors and independent lawyers. International organisations which can provide assistance include: OHR, UNHCR, OSCE, UNMIBH and the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC).²
 CRPC Executive Office Sarajevo, 071 211 151;
 UNHCR Sarajevo, 071 666 160; OSCE Sarajevo, 071 292 100; OHR Sarajevo, 071 447 275.

² CRPC issues separate information sheets on its procedures and requirements. Contact: CRPC Sarajevo Executive Office tel: +387 (71)211 151, Regional Office; Banja Luka, tel +381 (78)47 718; Regional Office Sarajevo, tel: + 387 (71) 615 808. FRY, Podgorica, tel.+ 381 (81)622 380, Belgrade, tel +381 (11) 636 346. Germany, Berlin tel: +49 30 90158 727, Duisburg; +49 203 3462 327; Norway, Oslo, toll-free: 800 410 42, Sweden, Malmö, toll-free: 209 550 34; Denmark, Copenhagen, tel: +45 3373 5334; Netherlands, Utrecht, tel: +31 302 364 450.



HOW TO CLAIM REPOSSESSION OF YOUR SOCIALLY-OWNED APARTMENT IN THE REPUBLIKA SRPSKA

Property Information Sheet No. 5b. - 10 February 1999

On 19 December 1998 the Republika Srpska *Law on Cessation of Application of the Law on the Use of Abandoned Property* (the 'Law') came into force. The Law creates an administrative procedure for refugees and displaced persons to claim repossession of socially-owned apartments with occupancy rights and private property which is located in the Republika Srpska, and abandoned after 30 April 1991.

This information sheet explains the essential aspects of the procedure for claiming socially-owned apartments. Further information can be found in the Law and in the official instruction of the Republika Srpska Ministry for Refugees and Displaced Persons (published in the Republika Srpska Official Gazette on 21 January 1999).¹

Under the Law, claims must be filed for the repossession of socially-owned apartments. For people wishing to claim apartments, it is important to note that claims must be filed by 19 June 1999. There is no deadline for filing claims for private property.

• Who can claim?

Claims for socially-owned apartments may be filed by the person who held the occupancy right at the time when the apartment became abandoned, or a member of his/her family household. Holders of occupancy rights, or members of their family household, can appoint a proxy (*punomoćnik*) or authorised representative (*ovlasteni predstavnik*) with power of attorney to sign and file a claim on their behalf. Both the proxy and the authorised representative must have an authorisation (power of attorney), (in BiH, this authorisation must either be sealed by a Court or administrative body, if abroad, it must be sealed by the Bosnian Diplomatic Office).

• Where and how to file?

Claims must be filed with the department of the Republika Srpska Ministry for Refugees and Displaced Persons in the municipality in which the apartment is located (see the attached list of addresses). They are the 'responsible' body according to the law. This can be done in person, or by mail.

Claimants can use the claim form which was prepared and issued by the Republika Srpska Ministry for Refugees, (there is one form for private property and one for socially-owned apartments). Copies of the forms can be obtained within BiH from the Federation Municipal Information Offices (MROs), RS Departments of the Ministry for Refugees and Displaced Persons (OMIs),

Information/Legal Aid Centres, International Organisations (OHR, UNHCR, OSCE, UNMIBH), or from DP Associations. Although it is not compulsory to use the standard Claim Form, it is strongly recommended so that the claim will be more easily processed.

Two copies of the claim form should be filled in; the responsible body will take one copy and must stamp the other and return it to the claimant or her/his authorised representative. If the claim form has already been signed by the claimant, anyone can submit the form on their behalf. In this case, an authorisation is not necessary. Claims can be filed by mail; either registered mail, (*preporučeno*), or registered mail with reply, (*povratnica*) is recommended. The mail receipt should be kept as proof of postage. *If supporting documents are attached, then it is advisable to list the contents of the package on the mail receipt.* The competent body must return a stamped copy of the claim form by mail to the claimant or their representative as proof that the claim has been filed in a valid way.

• What information?

Your claim must contain the following information:

- personal data of the occupancy right holder or member of family household; including name/surname, status of claimant (occupancy right holder, family household);
- data and address relating to claimed apartment, including name of allocation right holder and date the occupancy right was obtained;
- contact address and details of claimant or authorised representative where necessary;
- the date of intended return to the claimed apartment (this date is not binding, but must be within one year from the date of the claim);
- a statement that the claimant was either the occupancy right holder or a family household member at the time the apartment became abandoned;
- signature of the claimant or her/his authorised representative.

• What documents?

The information listed above should be sufficient for a claim to be processed. The competent body must accept the claim and is not allowed to request any further information or documents concerning the occupancy right; and the authorities must obtain any necessary additional documentation from relevant administrative bodies and courts themselves. However, where possible it is advisable for the claimant to attach a copy of any documents which support the claim. As proof of occupancy right, this may include:

¹ Information Sheet No. 5.a provides detail on the claims process under the Law for claiming private property on the territory of Republika Srpska.

- a) a contract on use of the apartment;
- b) a contract on the exchange of the apartment;
- c) a court decision confirming the occupancy right; OR
- d) a decision replacing the contract on use.

If the claimant is not the occupancy right holder but a member of her/his family household, a registration of residence at the claimed apartment at the time when the apartment became abandoned, or a movement certificate should be attached to the claim form. Alternatively, if any of these documents cannot be provided, other supporting documentation which shows that the claimant was the legal occupant at the time it became abandoned, may also be attached (e.g. registration of residence at the claimed apartment; statements of witnesses; utility bills).

• **Do claimants have to prove their identity?**

Yes. A claimant must show an identification document. The competent body must accept any identification document issued by the State of Bosnia and Herzegovina or an administrative body in the Federation or the Republika Srpska, as well as any other document that confirms identity (for example, SFRY documents, driving licence). If the claim is filed by mail or by another person, then a photocopy of the claimants identification document must be attached to the claim.

• **Previous claims**

If a claim was filed under the old Law on Use of Abandoned Property (before December 1998) but no final decision was made, or a decision was rendered with which the claimant was not satisfied, pre-war occupants should file another claim in accordance with the new law and Instructions.

If a decision in favour of the claimant has already been received but has not been enforced, the claimant does not have to file a new claim for repossession of the socially-owned apartment, but should file a request that the decision be enforced.

If a claim was previously filed with the Commission for Real Property Claims for Displaced Persons and Refugees (CRPC) for a socially-owned apartment in the Republika Srpska, the claimant is entitled under the new Law to file a new claim with the responsible body of the Republika Srpska Ministry for Refugees and Displaced Persons in the municipality where the apartment is located. However, it is not necessary under the new Law to file a new claim. The original claim filed with CRPC will be deemed to be a valid claim under the Law. CRPC will issue a decision on the claim in due course. If a pre-war occupant has not previously filed a claim with the CRPC, s/he must first file a claim for repossession with the municipal department, according to the new Law, before filing with the CRPC.

If an application was previously filed with another body, for example the Ombuds-person for Human Rights or the Human Rights Chamber, then a pre-war occupant must submit a new claim to the municipal department of the Republika Srpska Ministry for Refugees and Displaced Persons according to the new Law.

- **Does a claim for repossession have to be filed under the new law even if an Application for Voluntary Return has already been submitted?**

Yes, a separate claim must be filed for the return of an apartment even if the claimant has submitted an "Application for Voluntary Return of Displaced Persons and Repatriates". The Application for Voluntary Return does not automatically entitle the claimant to repossess his/her home. Rather, the Application for Voluntary Return provides current details relating to the applicants' home.

- **The deadline for filing claims**

Claims for socially-owned apartments must be filed before 19 June 1999.

If this 19 June 1999 deadline is not met, pre-war occupants will permanently lose their occupancy right. Similarly, if the pre-war occupant does not return and start using the apartment within one year of the date the decision becomes final, they face permanent loss of their occupancy right (unless an exception applies as outlined in the Law).

REMEMBER:

- * It is not possible to fax claims.
- * There is no deadline for filing claims for private property and no time limit for return to the property.
- * The authorities are not allowed to levy any taxes or administrative fees relating to the claims process.
- * The authorities must decide on the claim within 30 days of receiving it, and must deliver the decision on the claim within 8 days to the claimant or authorised representative.

Further information

More information and advice about the claims process, and the subsequent steps in the procedure, can be obtained from legal aid centres, advisors and independent lawyers. International organisations which can provide assistance include: OHR, UNHCR, OSCE, UNMIBH and the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC).²

CRPC Executive Office Sarajevo, 071 211 151;
UNHCR Sarajevo, 071 666 160; OSCE Sarajevo, 071 292 100; OHR Sarajevo, 071 447 275.

² CRPC issues separate information sheets on its procedures and requirements. Contact: CRPC Sarajevo Executive Office tel: +387 (71)211 151, Regional Office; Banja Luka, tel +381 (78)47 718; Regional Office Sarajevo, tel: +387 (71) 615 808. FRY, Podgorica, tel.+ 381 (81) 622 380, Belgrade, tel +381 (11) 636 346. Germany, Berlin tel: +49 30 90158 727, Duisburg; +49 203 3462 327; Norway, Oslo, toll-free: 800 410 42, Sweden, Malmoe, toll-free: 209 550 34; Denmark, Copenhagen, tel: +45 3373 5334; Netherlands, Utrecht, tel: +31 302 364 450.

**CLAIM FORM FOR RETURN OF PROPERTY
TO OWNER, POSSESSOR, USER**

Case ID. _____ (leave blank)

Date claim submitted: ____/____/199__

PLEASE COMPLETE IN CAPITAL LETTERS

1- Fill in personal data (of owner, possessor, user):

Family name: _____

Name of one parent: _____

Name: _____

Date of birth (day/month/year): _____ Place of birth: _____

Unique ID number (JMBG), if known: _____

2- Fill in data relating to real property claimed:

City-municipality: _____ Postal code: _____

Street and number: _____

Name of real property owner: _____

3- Fill in data relating to present address of claimant:

City-municipality: _____ Postal code: _____

Street and number: _____

4- Fill in data relating to proxy or authorized person (if applicable):

Name of proxy or authorized person: _____

City-municipality: _____ Postal code: _____

Street and number: _____

Country: _____ Phone: _____

5- Statement on claim for the repossession of property and the date of intended return:

I wish to return and to enter into the possession of my property described under item 2 on _____
(day/month/year).

Signature of claimant/proxy _____ Date: _____

Supporting documentation:

The claimant shall attach a verified copy of one of the following documents:

1. Land-Registry slip
2. Title-deed
3. Court decision (on inheritance, gift, etc.)

If the claimant is unable to produce the documentation referred to above, s/he shall attach other documentation supporting the claim.

Addendum

The following paragraph on the claim form was attached to the Instruction signed by the Minister. However, it was omitted from the version printed in the Official Gazette.

The responsible body shall accept all claims with or without supporting documents. In cases where the claimant is not able to provide supporting documentation, the responsible body shall verify the evidence in accordance with Article 8 of the Law on Cessation of Application of the Law on Use of Abandoned Property in order to have the rights of the claimant confirmed. However, wherever possible claimants should provide copies of the above mentioned supporting documents, or other evidence of ownership of the property described in Item 2 above.

CLAIM FOR RETURN OF AN APARTMENT TO OCCUPANCY RIGHT HOLDER

Form II

Case ID. _____ (leave blank)

Date claim submitted: ____ / ____ / 199__

PLEASE COMPLETE IN BLOCK LETTERS

1- Fill in personal data (of occupancy right holder or family household member):

Family name: _____

Name of one parent: _____

Name: _____

Date of birth (day/month/year): _____ Place of birth: _____

Unique ID number (JMBG), if known: _____

Number of household members returning to claimed apartment (including claimant): _____

Claimant status:

Occupancy Right Holder: _____

Member of family household at time of declaration of abandonment: _____

2- Fill in data relating to apartment claimed:

City-municipality: _____ Postal code: _____

Street and number: _____

Name of Occupancy Right Holder: _____

Date Occupancy Right Holder acquired occupancy right (if known): _____

3- Fill in data relating to apartment claimed:

City-municipality: _____ Postal code: _____

Street and number: _____

Allocation Right Holder (if known): _____

4- Fill in data relating to proxy or authorized person (if applicable):

Name of proxy or authorized person: _____

City-municipality: _____ Postal code: _____

Street and number: _____

Country: _____ Phone: _____

5- Statement on claim for the repossession of the apartment and the date of intended return:

I wish to return to the apartment described under item 2 on _____ (day/month/year), and I hereby express my wish to enter into the possession of my apartment as of that date.

I, by my signature, confirm that was the occupancy right holder at the time the apartment claimed was declared abandoned, or a member of his/her family household at that time, or that I am the proxy of the occupancy right holder or household member.

Signature of claimant/proxy: _____ Date: _____

(see the back of the form)

Supporting Documentation:

The claimant shall attach a copy of one or more of the following documents:

1. The contract on the use of the apartment;
2. A contract on the exchange of the apartment;
3. A court decision confirming the occupancy right;
4. A decision of the competent administrative body replacing the contract on the use of the apartment.

If the Claimant is a member of the family household, the Occupancy Right Holder, he or she shall provide a copy of his/her Registration of Residence at the claimed apartment or a movement certificate.

If the Claimant is unable to produce the documentation referred to above, the Claimant should attach other documentation supporting the claim, such as decision declaring the apartment abandoned, or allocating the apartment for temporary use to another person, registration of residence, utility bills or statements of witnesses.

The deadline for filing the claim is 19 June 1999.