

LAW ON THE CESSATION OF APPLICATION OF THE LAW ON THE USE OF ABANDONED PROPERTY

(Official Gazette of the Republika Srpska, Nos. 38/98, 12/99, 31/99, with incorporated amendments proclaimed by the High Representative Decision of the 4 December 2001 (in underlined text below) and published in the Official Gazette of the Republika Srpska, No. 65/01 of the 21 December 2001)

I. GENERAL PROVISIONS

Article 1

The Law on Use of Abandoned Property (Official Gazette of RS, Nos. 3/96, 21/96 and 31/99) shall cease to be in force, as well as the regulations passed thereunder and other regulations regulating the issues of abandoned property and apartments passed between 30 April 1991 and the entry into force of this Law.

The provisions of this Law shall apply to all real property, including privately-owned business premises, privately-owned houses and privately-owned apartments, and apartments with occupancy right ('apartments') which were vacated since 30 April 1991, whether or not the real property or apartment was declared abandoned: provided that the owner, possessor or user lost possession of the real property or the occupancy right holder lost possession of the apartment before 19 December 1998.

For the purpose of this Law, temporary user shall be understood to mean the person who is using real property or an apartment with a valid legal basis; an illegal user shall be understood to mean the person who is using the real property or an apartment without a valid legal basis. If a provision refers to both categories of users, the term current user is used.

Article 1a

For the purposes of this Law, the standard of alternative accommodation provided to temporary users entitled to it under this Law shall be one or more rooms which provide shelter to the user from adverse weather conditions and protects his or her furniture from damage, with a minimum of 5 square metres/person. Such accommodation may be in the form of business facilities or a co-tenancy.

Article 2

All administrative, judicial, and any other decisions enacted on the basis of the regulations referred to in Article 1 of this Law in which rights of temporary occupancy have been created shall remain effective until cancelled in accordance with this Law.

Any occupancy right or contract on use made between 1 April 1992 and 19 December 1998 is cancelled. A person who occupies an apartment on the basis of an occupancy right which is cancelled under this Article shall be considered a temporary user for the purposes of this Law.

A temporary user referred to in the previous paragraph who does not have other accommodation available to him/her has the right to a new contract on use to, or an extension of temporary use of, the apartment, in accordance with the provisions of this Law, if the occupancy right of the former occupant is cancelled under Article 16 of this Law or if a claim of the former occupant to repossess the apartment is rejected by the competent authority in accordance with this Law.

An occupancy right holder to an apartment as at 1 April 1992, who agreed to the cancellation of his/her occupancy right and who subsequently received another occupancy right which is cancelled under this Article, is entitled to make a claim for repossession of his/her former apartment in accordance with this Law.

Article 2a

The provisions of this Law shall also apply to contracts on exchange of apartments, where the exchange took place between 1 April 1992 and 19 December 1998 in accordance with the Law on Housing Relations (RS OG 19/93, 22/93, 12/99 and 31/99) (hereinafter "ZOSO").

In the event that each party to the contract on exchange filed a claim for repossession before the expiry of the deadline set out in Article 16, the competent authority shall process the claims according to this Law. Notwithstanding, the competent authority in each municipality shall deem the exchange valid, if both parties give a statement reconfirming the contract on exchange, and shall revalidate the contracts on use pursuant to Article 27 paragraph 2, point 4 of this Law.

In the event that neither party to the contract on exchange filed a claim for repossession before the expiry of the deadline set out in Article 16, the competent authority in each municipality shall revalidate the contracts on use pursuant to Article 27 paragraph 2, point 4 of this Law.

In the event that only one party to the contract on exchange filed a claim for repossession before the expiry of the deadline set out in Article 16, the competent authority shall inform in writing the corresponding competent authority in the municipality where the exchanged apartment is located of the claim. The receiving competent authority shall then deem a claim to have been filed, before the expiry of the deadline set out in Article 16, for the exchanged apartment within its jurisdiction and process the claim according to the law.

In case of a dispute as to the validity of the contract on exchange, the competent authority shall suspend proceedings and shall refer the parties to the competent court according to the provision of the Law on General Administrative Procedures (SFRJ OG 47/86; taken over by Article 12 of the Constitutional Law on Implementation of the Constitution of the Republika Srpska, RS Official Gazette, No. 21/92) regulating preliminary issues, in order to rule on the allegation. Notwithstanding the provisions of the Law on Civil Procedures (SFRJ OG 4/77; taken over by Article 12 of the Constitutional Law on Implementation of the Constitution of the Republika Srpska, RS

Official Gazette, No. 21/92), the burden of proof shall lie upon the party claiming to have acquired rights to the apartment through the contract on exchange to establish that the transaction was conducted voluntarily and in accordance with the law. Where one of the exchanged apartments is located in the territory of another republic of the former SFRY, the burden of proof shall lie upon the party claiming that the contract on exchange was not conducted voluntarily and in accordance with the law to demonstrate that the status of the parties prior to the exchange shall be restored.

II. RETURN OF PROPERTY TO PRIVATE OWNERS, POSSESSORS OR USERS

Article 3

The owner, possessor or user of the real property who abandoned the property shall have the right to repossess the real property with all the rights which s/he had before 30 April 1991 or before the real property became abandoned.

Article 4

For the purpose of this Law, the owner, possessor or user shall be understood to mean the person who was the owner, possessor or user of the real property under the applicable legislation at the time when the real property became abandoned or at the time when the owner, possessor or user first lost possession of the real property, in cases where the real property was not declared as abandoned.

Article 5

A user to whom the real property was allocated for temporary use pursuant to the Law on the Use of Abandoned Property (hereinafter referred as: the temporary user) may continue to use the real property under the conditions and in the manner as provided by the Law on the Use of Abandoned Property until a decision referred to in Article 11 of this Law has been issued.

Article 6

If a temporary user is required to vacate the real property pursuant to the provisions of this Law, the competent authority of the Ministry of Refugees and Displaced Persons shall determine within the deadline of 30 days for making the decision under Articles 9 and 11 of this Law whether s/he is entitled to alternative accommodation in accordance with Article 34 of this Law. In case that the temporary user is entitled to alternative accommodation, the competent authority shall provide alternative accommodation within the time limit in which the temporary user is required to vacate the property under Article 11 of this Law.

In no event shall failure of the competent authority to meet its obligations under paragraph 1 of this Article operate to delay the ability of the owner, possessor or user to enter into possession of his/her property.

Article 7

The owner, possessor or user of abandoned real property, as referred to in Article 4, or his/her authorised representative, shall have the right to file a claim at any time for the repossession or disposal in another way of his/her abandoned property.

The right of the owner to file a claim shall not become obsolete.

All past final and binding court decisions which order the return of real property to the possession of the owner, possessor or user shall be enforced by the competent court. Any initiated court proceedings concerning the return of real property to the possession of the owner, possessor or user will continue unless withdrawn by the owner, possessor or user, while new claims for the repossession of property shall be submitted to the under Article 8 of this Law.

Article 8

A claim under Article 7 of this Law may be filed by the owner, possessor or user of abandoned real property with the competent authority of the Ministry of Refugees and Displaced Persons in the municipality on the territory of which the real property is located.

An owner, possessor or user shall be entitled to file a claim for repossession of real property, including privately-owned business premises, privately-owned houses and privately-owned apartments, including any real property which is or was at any time used partly or wholly for business purposes. The competent authority of the Ministry of Refugees and Displaced Persons shall be competent to receive and decide the claim in accordance with this Law.

Claims may be made in writing signed by the claimant or an authorised representative, or orally by the claimant or an authorised representative. Claims made in writing may be submitted in person, by mail or by any other person. No power of attorney is required for another person to submit a claim signed by the claimant.

A claim should include:

1. information on the owner, possessor or user;
2. all necessary information on the real property;
3. any evidence possessed by the claimant indicating that the claimant is the owner, possessor or user of the real property;
4. the date when the claimant intends to repossess the real property.

The competent authority shall accept claims regardless of whether or not supporting documentation is supplied by the claimant. In the event that the claimant cannot provide the necessary supporting documentation, the competent authority shall check the records of the relevant court or administrative body and any other available documentation to confirm the rights of the claimant. The competent authority shall accept any identification document issued by the state of Bosnia and Herzegovina or any administrative body in either Entity, and any other document which shows the claimant's identity, and shall use any options provided in the *Law on General Administrative Procedures* (SFRY Official Gazette, No 47/86; taken over by Article 12 of the Constitutional Law on Implementation of the Constitution of the Republika Srpska, RS Official Gazette, No. 21/92) in the identification process.

The claimant shall be fully released from taxation, as well as from other expenses of the proceedings as provided in Articles 113 through 119 of the *Law on General Administrative Procedures*.

Article 9

The competent authority of the Ministry of Refugees and Displaced Persons shall be obliged to issue a decision to the claimant within 30 days from the date of receipt of the claim for repossession of real property. The claim shall be solved (rjesen) in the chronological order in which it was received, unless specified otherwise in law.

Article 10

The proceedings to return the real property to the owner, possessor or user shall be carried out in accordance with the provisions of the *Law on General Administrative Procedures*, unless this Law provides otherwise. The procedure until the issuance of the decision shall be carried out as an expedited procedure.

Article 11

The decision on return of the real property to the owner, possessor or user shall contain the following:

1. information on the owner, possessor or user to whom the real property is returned;
2. information on the real property subject to return;
3. the time limit within which the real property will be returned or put at disposal of the owner, possessor or user;
4. in cases where there is a current user, a decision on whether the current user is using the real property without legal basis ('illegal user') or is a legal temporary user;

5. a decision whether the temporary user is entitled to alternative accommodation under this Law;
6. a decision terminating the right of the temporary user;
7. the time limit for the current user to vacate the property, or for handing over of the land;
8. an explicit warning that the current user will be subject to prosecution under the Criminal Code if he or she removes objects from, or otherwise damages, the property, and;
9. an explicit warning to a current user who is a multiple occupant that he or she is subject to the fines set out in Article 37, Paragraph 3 of this Law

Article 11a

The deadline for vacating the property, referred to in Article 11, Paragraph 1, Point 7 of this Law shall be 15 days from the date of delivery of the decision and the decision on entitlement to accommodation under Article 11, Paragraph 1, Point 5 of this Law shall be negative, unless the current user is a temporary user as defined in Article 1, Paragraph 3 of this Law and:

1. The temporary user is not a multiple occupant, as defined in Articles 24a and 24b of this Law; and:
2. The temporary user left his/her apartment or residential private property in the territory of Bosnia & Herzegovina between 30 April 1991 and 19 December 1998; and:
 - (a) In the case that the apartment or residential private property s/he left is occupied, s/he or a member of his/her 1991 family household has applied to the competent administrative authority, court or the Commission for Real Property Claims of Displaced Persons and Refugees (hereinafter, CRPC) for repossession of that apartment within all deadlines prescribed by law, or for repossession of that residential private property within 60 days of this provision coming into force and is awaiting a decision on that claim; or;
 - (b) In the case that a decision on a claim for repossession or CRPC certificate has been issued with respect to the apartment or residential private property s/he left, s/he or a member of his/her 1991 family household has requested enforcement of that decision or CRPC certificate within 60 days of this provision coming into force or within 60 days of being legally entitled to seek enforcement, whichever is later; or

(c) In the case that the apartment or residential private property s/he left is damaged or destroyed, s/he or a member of his/her 1991 family household has applied for return and reconstruction or is awaiting reconstruction assistance.

In case the current user fulfills the criteria set out in Paragraph 1 of this Article, the deadline for vacating the apartment shall be not more than 90 days from the date of the delivery of the decision. If a temporary user ceases to fulfill the conditions in this paragraph and a decision setting out a 90-day deadline to vacate has already been issued, the competent authority *ex officio* shall immediately issue a new decision specifying a deadline to vacate 15 days from the date of its delivery and then a conclusion on enforcement.

In exceptional circumstances, the deadline referred to above may be extended by up to one year if the body responsible for providing another accommodation in accordance with this Law provides detailed documentation regarding the lack of available accommodation to the Ministry of Refugees and Displaced Persons, which shall be agreed upon by the Office of the High Representative. In each individual case, the requirements of the European Convention on Human Rights and its Protocols must be met, and the owner, possessor or user shall be notified of the decision to extend the deadline and the basis for the decision 30 days before the deadline has expired.

The current user shall be required to demonstrate that s/he meets the conditions for entitlement to alternative accommodation under this Law; including providing claim or decision numbers for the repossession of the current user's 1991 home. If the current user cannot demonstrate that s/he meets these conditions, the competent authority shall proceed in accordance with the *Law on General Administrative Procedures* in order to determine relevant facts.

The owner, possessor or user may immediately reoccupy real property that is vacant.

In case of the return of arable land into possession, the time limit for its handing over may be extended, as an exception, until the harvest is collected.

Article 12

The competent authority of the Ministry of Refugees and Displaced Persons shall submit its decision to the claimant requesting the repossession of the property and the current user of the property.

Any appeal against a decision may be submitted to the responsible second instance body in accordance with the *Law on General Administrative Procedures* within 15 days of receipt of the decision. Any appeal shall not suspend the execution of the decision.

In the event of an appeal, the competent authority shall retain copies of documents or take any other steps as necessary to ensure that the decision can be executed, notwithstanding the initiation of an appeal. If an appeal against a positive decision is not de-

terminated within the time period specified in the *Law on General Administrative Procedures*, the decision of the first instance body, and therefore the claimant's legal right to the real property, shall be deemed to be confirmed.

In case the responsible second instance body annuls the first instance decision, the annulment shall be considered partial under Article 239, paragraph 3 of the *Law on General Administrative Procedures*, in the sense that the annulment shall be related only to the decision on the rights of the current occupant unless there are grounds to annul the decision on the right of the claimant. If the competent authority again confirms the property right of the claimant, the deadline set for vacating the property pursuant to Article 11, paragraph 1, point 7 of this Law shall run from the date of delivery of the original decision that was partially annulled.

Article 13

The owner, possessor or user of real property as referred to in Article 3 of this Law may at any time initiate proceedings before the CRPC.

In case that the proceedings under Paragraph 1 of this Article have been initiated, all other proceedings carried out before the competent bodies, including the procedure to enforce the decision referred to in Article 11 of this Law, shall be stayed pending the final decision of the CRPC, but only in cases where the competent authority has rejected the request of the claimant on formal or material grounds, and where suspension is requested by the CRPC.

A decision of the CRPC shall be final and binding.

In the light of specifying the rights and obligations of the party referred to in Paragraph 1 of this Article, the decision of the CRPC shall have the same legal force as the decision of any other competent authority issued in accordance with this Law.

A decision of the CRPC shall be enforced by the competent bodies of the Republika Srpska.

III. RETURN OF APARTMENTS TO THE HOLDERS OF OCCUPANCY RIGHT

Article 14

The occupancy right holder of an abandoned apartment or a member of his or her family household as defined in Article 6 of the ZOSO (hereinafter the "occupancy right holder") shall have the right to return to the apartment in accordance with Annex 7 of the General Framework Agreement for Peace in Bosnia and Herzegovina. The provisions of this Law shall apply to all apartments vacated between 30 April 1991 and 19 December 1998, whether or not the apartment was registered as abandoned, and regardless of whether the apartment was used for business purposes after 30 April 1991.

A person who left his/her apartment between 30 April 1991 and 19 December 1998 shall be presumed to be a refugee or displaced person under Annex 7 of the General

Framework Agreement for Peace in Bosnia and Herzegovina with a right to return to that apartment irrespective of the circumstances under which s/he left the apartment.

All past final and binding court decisions which order the return of an apartment to the occupancy right holder as defined in this Law shall be enforced by the competent court. Any initiated court proceedings concerning the return of an apartment to the occupancy right holder will continue unless withdrawn by the occupancy right holder, while new claims for the repossession of occupancy rights shall be submitted to the competent authority under Article 15 of this Law.

Article 15

The occupancy right holder as defined in Article 14, Paragraph 1, of this Law shall be entitled to file a claim for repossession of the apartment.

A claim for repossession of the apartment shall be filed with the competent authority of the Ministry of Refugees and Displaced Persons in the municipality in which the apartment is located.

A claim for repossession of the apartment should include:

1. information on the claimant;
2. information on the apartment;
3. evidence that the claimant is the occupancy right holder or a member of the latter's family household;
4. the date when the claimant intends to reoccupy the apartment, but not later than one year from the date of submitting the claim;
5. information on the residence of the occupancy right holder and members of his/her household at the time when the claim is submitted.

The competent authority shall accept all claims with or without the appropriate documents enclosed by the claimant. In cases when the claimant is not able to provide the necessary relevant documents, the competent authority shall verify the evidence, as well as other available documents, with the allocation right holder, the appropriate court or administrative body in order to have the rights of the claimant confirmed.

The competent authority shall accept any identification document issued by the state of Bosnia and Herzegovina or any legal body in either Entity, as well as any other document confirming the identity of the claimant.

The claimant shall be fully exempted from taxation as well as from other expenses of the proceedings, as provided in Articles 113 through 119 of the *Law on General Administrative Procedures*.

Article 16

A claim for repossession of the apartment may be filed within 16 months from the date of entry into force of this Law.

If the occupancy right holder does not file a claim within the time limit referred to in the previous paragraph, his/her occupancy right shall be cancelled.

Article 17

The competent authority of the Ministry of Refugees and Displaced Persons shall decide on the claim for the repossession of the apartment by the occupancy right holder within 30 days from the date of receipt of the claim. The claim shall be solved (rjesen) in the chronological order in which it was received, unless specified otherwise in law.

The competent authority shall not reject a claim on the basis of provisions of the ZOSO, other than for failing to fall within the definition of member of household set out in Article 6 of the ZOSO. The competent authority also shall not reject a claim on the basis of a foreign citizenship acquired by the claimant since 30 April 1991.

Article 18

The decision on repossession of the apartment by the occupancy right holder shall contain:

1. a decision confirming that the claimant is the occupancy right holder;
2. a decision on repossession of the apartment by the occupancy right holder if there is a temporary user in the apartment, or if the apartment is vacant or occupied without legal basis;
3. in cases where there is a current user, a decision on whether the current user is using the real property without legal basis ('illegal user') or is a legal temporary user;
4. a decision on termination of the right of temporary use of the apartment if there is a temporary user of the apartment;
5. a time limit for vacating the apartment by a current user or another person in possession of the apartment;
6. a decision concerning whether the temporary user is entitled to alternative accommodation in accordance with this law.
7. an explicit warning that the current user will be subject to prosecution under the Criminal Code if he or she removes objects from, or otherwise damages, the apartment, and;

8. an explicit warning to a current user who is a multiple occupant that he or she is subject to the fines set out in Article 37, Paragraph 3 of this Law.

Article 18a

The deadline for vacating the apartment, referred to in Article 18, Paragraph 1, Point 5 of this Law shall be 15 days from the date of delivery of the decision and the decision on entitlement to accommodation under Article 18, Paragraph 1, Point 6 of this Law shall be negative, unless the current user is a temporary user as defined in Article 1, paragraph 3 of this Law and:

1. The temporary user is not a multiple occupant, as defined in Articles 24a and 24b of this Law; and:
2. The temporary user left his/her apartment or residential private property in the territory of Bosnia & Herzegovina between 30 April 1991 and 19 December 1998; and:
 - (a) In the case that the apartment or residential private property s/he left is occupied, s/he or a member of his/her 1991 family household has applied to the competent administrative authority, court or CRPC for repossession of that apartment within all deadlines prescribed by law, or for repossession of that residential private property within 60 days of this provision coming into force and is awaiting a decision on that claim; or
 - (b) In the case that a decision on a claim for repossession or CRPC certificate has been issued with respect to the apartment or residential private property s/he left, s/he or a member of his/her 1991 family household has requested enforcement of that decision or CRPC certificate within 60 days of this provision coming into force or within 60 days of being legally entitled to seek enforcement, whichever is later; or
 - (c) In the case that the apartment or residential private property s/he left is damaged or destroyed, s/he or a member of his/her 1991 family household has applied for return and reconstruction or is awaiting reconstruction assistance.

In case the current user fulfills the criteria set out in Paragraph 1 of this Article, the deadline for vacating the apartment shall be not more than 90 days from the date of the delivery of the decision. If a temporary user ceases to fulfill the conditions in this paragraph and a decision setting out a 90-day deadline to vacate has already been issued, the competent authority *ex officio* shall immediately issue a new decision specifying a deadline to vacate 15 days from the date of its delivery and then a conclusion on enforcement.

In exceptional circumstances, the deadline referred to in Paragraph 2 of this Article may be extended by up to one year if the body responsible for providing alternative accommodation on the territory of which the temporary user of the apartment had the

last domicile or residence provides detailed documentation regarding the lack of available housing for provision of appropriate accommodation the Ministry for Refugees and Displaced Persons; which shall be agreed upon by the Office of the High Representative. In each individual case, the requirements of the European Convention on Human Rights and its Protocols must be met, and the occupancy right holder shall be notified of the decision to extend the deadline and the basis for the decision 30 days before the deadline has expired.

The current user shall be required to demonstrate that s/he meets the conditions for entitlement to alternative accommodation under this Law; including providing claim or decision numbers for the repossession of the current user's 1991 home. If the current user cannot demonstrate that s/he meets these conditions, the competent authority shall proceed in accordance with the *Law on General Administrative Procedures* in order to determine relevant facts.

The occupancy right holder may immediately reoccupy an apartment that is vacant.

In no event shall failure of the competent authority to meet its obligations to provide alternative accommodation operate to delay the ability of the occupancy right holder to enter into possession of the apartment.

Article 19

The competent authority shall deliver the decision referred to in Article 18 of this Law within 8 days from the date of issuance of the decision to:

1. the occupancy right holder;
2. the user of the apartment;
3. the allocation right holder.

Any appeal against a decision may be submitted to the responsible second instance body in accordance with the *Law on General Administrative Procedures* within 15 days of receipt of the decision. Any appeal shall not suspend the execution of the decision.

In the event of an appeal, the competent authority shall retain copies of documents or take any other steps as necessary to ensure that the decision can be executed, notwithstanding the initiation of an appeal. If an appeal against a positive decision is not determined within the time period specified in the *Law on General Administrative Procedures*, the decision of the first instance body, and therefore the claimant's occupancy right to the apartment, shall be deemed to be confirmed.

In case the responsible second instance body annuls the first instance decision, the annulment shall be considered partial under Article 239, paragraph 3 of the *Law on General Administrative Procedures*. If the competent authority again confirms the occupancy right of the claimant, the deadline set for vacating the apartment pursuant

to Article 18, paragraph 1, point 5 of this Law shall run from the date of delivery of the original decision that was partially annulled.

Article 20

The proceedings to return the apartment to the occupancy right holder shall be carried out in accordance with the provisions of the Law on General Administrative Procedures, unless this Law provides otherwise.

Article 21

The competent authority may temporarily allocate for use as alternative accommodation by a temporary user entitled under this Law an apartment in cases where a decision has been issued under Article 17 of this Law and delivered to the occupancy right holder in accordance with law, and where:

1. the current user voluntarily vacates the apartment within the deadline stated in the Decision and the occupancy right holder, a member of his/her 1991 household, or an authorised proxy fails to collect the keys of the apartment within 30 days from the day on which s/he receives written notification from the competent authority that the apartment is vacant; or
2. the current user vacated the apartment following compulsory enforcement and the occupancy right holder, a member of his/her 1991 household, or an authorised proxy fails to collect the keys of the vacated apartment within 30 days from the day on which s/he receives written notification from the competent authority that the apartment is vacant.

In case the current user does not vacate the apartment within the deadline stated in the Decision and the occupancy right holder fails to initiate enforcement proceedings within 30 days after expiration of the deadline for the current user to vacate, the competent authority shall *ex officio* evict the current user if s/he is not entitled to alternative accommodation pursuant to this Law.

The competent authority may then temporarily allocate the apartment for use by the current user, if they are entitled to alternative accommodation under this Law, or to another temporary user entitled to alternative accommodation under this Law. The competent authority shall set out fully for the claimant, in any decision on enforcement or notification that the apartment is vacant and sealed, her/his obligation to collect the keys or face the possibility of the use of the apartment for alternative accommodation pursuant to this Article.

Only once the occupancy right holder, a member of his/her 1991 household, or an authorised proxy collects the keys, shall the provisions of the ZOSO, with the exceptions of Articles 44, Paragraph 1(6), Article 47 and Article 49, apply to the occupancy right.

Article 21a

The competent authority must allocate the apartment referred to in Article 21 of this Law in accordance with Article 31 of this Law, and with the standard set out in Article 1a of this Law to the temporary use of a person who is:

1. entitled to alternative accommodation in accordance with Article 34 of this Law; and
2. currently a temporary user of an apartment or real property; and
3. required to vacate that apartment or real property following a decision on a claim for repossession under this Law, or a request for enforcement of a decision of the CRPC.

The temporary permit shall not be extended if the occupancy right holder, a member of his/her 1991 household or an authorised proxy requests to collect the keys. The competent authority shall immediately evict the temporary user at the end of the current 6-month period and hand the keys over to the occupancy right holder, a member of his/her 1991 household or an authorised proxy.

If a cancellation procedure has been initiated before the court, and has not yet resulted in a final decision, the procedure shall be suspended. The competent authority shall send notice to the claimant that s/he, a member of his/her 1991 family household or an authorised proxy may collect the keys and repossess the apartment.

If the occupancy right holder, a member of his/her 1991 household or an authorised proxy does not request to collect the keys before the expiry of the deadline specified in Article 31 of this Law, the disposal of the apartment shall be regulated pursuant to Article 22 of this Law.

Article 22

Upon the cancellation of the occupancy right under Article 16 of this Law, including an occupancy right for which a claim for repossession was rejected or withdrawn, the allocation right holder may regain control over the apartment only once the deadline specified in Article 31 of this Law for the administration by the competent authority of such apartments has expired.

The return of apartments under the administration of the Ministry for Refugees and Displaced Persons to the allocation right holder upon the expiry of the deadline specified in Article 31 of this Law, shall be regulated by an instruction.

Any allocation or other use of an apartment in contravention of Paragraph 1 of this Article and Article 31 of this Law is null and void.

Article 23

The occupancy right holder as referred to in Article 14 and Article 15, paragraph 1 of this Law may initiate at any time proceedings before the CRPC.

In case that such proceedings have been initiated, all other proceedings carried out before the competent bodies, including the procedure to enforce the decision, shall be stayed pending the final decision of the CRPC, but only in cases where the competent authority has rejected the request of the claimant on formal or material grounds, and where suspension is requested by the CRPC.

A decision of the CRPC shall be final and binding.

In the light of specifying the rights and obligations of the party referred to in Paragraph 1 of this Article, the decision of the CRPC shall have the same legal force as the decision of any other competent authority issued in accordance with this Law.

A decision of the CRPC shall be enforced by the competent body of Republika Srpska.

IV - SPECIAL PROVISIONS

Article 24

The repossession of abandoned real property or the apartment by the owner, user or occupancy right holder shall be witnessed by an official of the competent authority and interested parties.

A report shall be made on the return of the real property or apartment and on the reinstatement of the owner or user into possession of the property or apartment. The report shall contain, among other things, a detailed description of the current state of the apartment and its contents.

If minutes are unavailable from the time when the real property or apartment was abandoned, the competent authority shall conduct an inspection of the real property or apartment at the time the decision is made pursuant to Article 9 or 17 of this Law. The authorities are obliged, pursuant to their duties under the Criminal Code, to seek the prosecution of a current user who illegally removes property or fixtures from the real property or apartment, or who willfully causes damage to the real property or apartment, when s/he vacates the real property or apartment either voluntarily or by eviction. The competent authority shall include a notice or warning to a current user about the aforesaid criminal sanctions for such action pursuant to Article 11, Paragraph 1, Point 8 or Article 18, Paragraph 1, Point 7 of this Law.

The competent authority shall record such information in the minutes, and distribute the information recorded therein, as well as other information regarding repossessed or vacant and sealed apartments, as is defined by instruction of the Ministry of Refugees and Displaced Persons. Information distributed and received in this manner is to be stored, processed, distributed and used only in a manner consistent with and neces-

sary to the purpose of promoting property law implementation in accordance with the General Framework Agreement for Peace.

Article 24a

If the person occupying the real property or apartment fails to voluntarily comply with the decision ordering him/her to vacate the real property or apartment, the competent authority shall employ compulsory enforcement, in accordance with the law.

The enforcement shall be carried out at the request of the owner, possessor or user for real property, or occupancy right holder for an apartment and/or a member of his family household.

Exceptionally, the competent authority shall *ex officio* or upon the request of a person who has a legal interest in the procedure pass a decision to vacate a real property or apartment immediately in cases where the current user is a multiple occupant. The affected person has the right to file an appeal against the decision, but the appeal does not suspend the eviction.

A multiple occupant includes, among others, a current user who uses a real property or an apartment and who:

1. holds an occupancy right to or is using more than one apartment; or
2. has a family house or apartment, in cases where the family house or apartment is sufficiently intact, or can be made so with minimal repairs, to provide for basic living conditions (basic protection against weather; access to water and electricity; a heating source; basic privacy; and security of belongings); or
3. is in possession of the house or apartment in which s/he lived on 30 April 1991 ('1991 home'); or where a member of his/her family household is in possession of his/her 1991 home; in cases where his/her 1991 home is sufficiently intact, or can be made so with minimal repairs, to provide for basic living conditions; or
4. has already been provided with alternative accommodation by a competent authority; or
5. has a member of his/her family household who has accommodation anywhere on the territory of Republika Srpska or in the same city or municipality as the 1991 home anywhere else in the territory of Bosnia and Herzegovina; or
6. has a legal right to return into possession of his/her 1991 home; and his/her 1991 home is sufficiently intact, or can be made so with minimal repairs, to provide for basic living conditions, as explained in this paragraph; and it is possible for him/her to return into possession of his/her 1991 home; or
7. whose accommodation needs are otherwise met, as defined in Article 24b of this Law.

The minimum standard for alternative accommodation set out in Article 1a of this Law shall only apply to Points 4, 5, and 7 of Paragraph 4 of this Article.

In cases where a claim has been filed under this Law for a real property or apartment which is vacated by a multiple occupant, and no decision has been issued at the date of vacation, the competent body shall immediately issue a decision on the claim.

For the purposes of this Article, “family household” shall mean all members of the family household as of 30 April 1991; or, if they were not members of the family household as of 30 April 1991, any spouse, parents, children; or other persons registered together with a temporary user.

Article 24b

A temporary user whose accommodation needs are otherwise met shall include, among others:

1. a temporary user who voluntarily sold the real property in which s/he lived on 30 April 1991; or
2. a temporary user who voluntarily exchanged the real property or apartment in which s/he lived on 30 April 1991 and who is in possession of the apartment or real property or has transferred it to a third party; or
3. a temporary user who refuses alternative accommodation offered in writing by the competent authority, or refuses assistance in the reconstruction of his/her residence of 30 April 1991. The competent authority shall inform the temporary user of the consequence of refusing alternative accommodation or reconstruction assistance; or
4. a temporary user who resides in the same municipality as s/he did in 1991, unless s/he can provide evidence as to why he or she cannot return to his or her 1991 home; or
5. a temporary user who was a sub-tenant in 1991; or
6. a temporary user who has sufficient disposable income, including assets, to provide for his/her own accommodation. Sufficient disposable income shall be defined as one-fourth of the applicable breadbasket, as calculated by the competent statistical institute, per current family household member, plus 200 KM; or
7. a temporary user, in a case where the owner or occupancy right holder provides him/her with a different accommodation as a tenant within the same municipality, unless the temporary user agrees in writing to another municipality elsewhere, for at least six months. The standard of accommodation shall be that set out in Article 1a of this Law; or

8. a temporary user who left his/her apartment or residential private property in the territory of Bosnia and Herzegovina between 30 April 1991 and 19 December 1998 and there was a claim for repossession of that apartment or residential private property filed, if the claim for repossession is subsequently withdrawn; or
9. a temporary user who has been allocated any state-owned, including formerly socially-owned, land since 6 April 1992, more than 150 days from the date the allocation issued pursuant to a waiver granted by the Office of the High Representative, unless s/he cancels the allocation within 60 days of the date of the confirmation or of the date this provision comes into force, whichever date is the later; or
10. a temporary user who, unless a waiver application is pending before the Office of the High Representative, has been allocated any state-owned, including formerly socially-owned, land since 6 April 1992, unless s/he cancels the allocation within 60 days of the date this provision comes into force; or
11. a temporary user who has received housing credits, building materials, or any other form of housing construction/purchase assistance, more than 150 days from the date of receipt of the assistance or the date of receipt of the first installment of the assistance, unless s/he cancels the assistance within 60 days of receipt of the assistance, or the first installment of the assistance, or within 60 days of the date this provision comes into force, whichever date is the later.

For the purposes of points 9 to 11 of paragraph 1 of this Article, the competent authority shall inform the temporary user of the consequences of not canceling the land allocation or housing construction/purchase assistance, whichever is applicable.

For the purpose of this article, the term 'temporary user' shall include persons defined in Article 24a, Paragraph 7.

Article 25

The provisions of this Law shall also apply to the abandoned real property, the ownership of which has been acquired after 30 April 1991 under any title on sale of real property (contracts on exchange, purchase, gift, etc.)

In case of a dispute as the lawfulness of the transferred real property right, the competent authority shall refer the matter to the competent court according to the provision of the Law on General Administrative Procedures regulating preliminary issues, in order to rule on the allegation.

Article 26

The provisions of this Law regulating the manner of repossession of the real property or apartment by the owner, possessor or user shall also apply regarding repossession

of the real property allocated to temporary users on the basis of rationalization (excess housing space).

A claim may also be filed under this Law for real property and apartments which were re-allocated pursuant to provisions, laws, instruments and decrees adopted or applied after 30 April 1991 which regulated the rational use of space, including but not limited to all of the laws and regulations referred to in Article 1 of this Law, and including among others Article 17 of the Law on the Use of Abandoned Property (RS Official Gazette, Nos. 3/96, 21/96); the Decree on the Accommodation of Refugees (RS Official Gazette, No. 19/95); the Decree on the Accommodation of Refugees and other Persons in the Territory of the Republika Srpska (RS Official Gazette, No. 27/93); and the Law on Amendments to the Law on Housing Relations (RS Official Gazette, Nos. 19/93, 22/93). Claims may also be filed by occupancy right holders whose occupancy rights were cancelled under the Law on Housing Relations (Law on Housing Relations, SRBH Official Gazette, Nos. 13/74, 23/76, 34/83, 12/87, 36/89; RS Official Gazette, No. 12/99).

Article 27

Where the temporary user has the right to a new contract on use of apartment under Article 2 Paragraph 3 of this Law, the Ministry for Refugees and Displaced Persons shall be authorised to conclude the contract on use of apartment in accordance with the ZOSO.

The temporary user shall have the right to a new contract on use of the apartment under Article 2 Paragraph 3 of this Law if s/he obtained the occupancy right in any of the following circumstances:

1. through transfer of the occupancy right to him/her as a spouse or as a member of the family household following the death of the previous occupancy right holder, in accordance with the ZOSO; or
2. through transfer following his/her divorce from the previous occupancy right holder; or
3. s/he was the first occupancy right holder of the apartment following its construction; or
4. through a valid contract on exchange of apartments, in accordance with the ZOSO and Article 2a of this Law.

In no case shall the temporary user have the right to a new contract on use of the apartment under Article 2, Paragraph 3 of this Law if s/he is a multiple occupant as defined in Article 24a, Paragraph 4, Points 1 to 6 or Article 24b, Paragraph 1, Points 1, 2, 9, 10, 11, or 12 of this Law or if s/he is not entitled to alternative accommodation under Article 11a, Paragraph 1, Points (2) (a) or (b) or Article 18a, Paragraph 1, Points (2) (a) or (b) of this Law.

As an exception to Article 24a, Paragraph 7 and Article 24b, Paragraph 3 of this Law, the criteria set out in the previous Paragraph of this Article shall apply only with regard to the temporary user and his or her family household as of 30 April 1991 for the purposes of this Article.

Any revalidation of a contract on use or allocation concluded in contravention of this shall be void.

The procedure by which the temporary user's right to revalidate a contract on use of the apartment is determined shall be regulated by instruction. The competent public defender shall supervise the procedure and control the conformity of revalidations of contracts on use and allocations, as well as purchases of apartments based on such revalidations or allocations, with this Article, pursuant to his/her duties as set out in the Law and by instruction.

Article 27a

A person whose occupancy right was cancelled under Article 2 of this Law, who spent his/her personal funds on necessary expenses for the apartment, shall be entitled to recover those funds from the previous occupancy right holder under the *Law on Obligations* (Official Gazette SFRJ, 29/78 and 39/85; Official Gazette RS 17/93 and 3/96). Proceedings under the Law on Obligations may be commenced from the date when the previous occupancy right holder regains possession of the apartment.

Where the court has awarded compensation to the person referred to in Paragraph 1, the occupancy right holder may recover that sum from the competent authority or allocation right holder under the *Law on Obligations*.

The competent authority shall be liable for all damage to the apartment from the time it was abandoned by the occupancy right holder until the time it is returned to the occupancy right holder or a member of his/her 1991 household pursuant to this law. Any repairs carried out by the occupancy right holder or a member of his/her 1991 household to restore the apartment to the state it was in prior to its abandonment shall be deemed "funds with which the holder of occupancy rights removed war damage" for the purposes of the *Law on Privatization of State Owned Apartments* (RS OG 11/00, 18/01 and 35/01).

Article 28

The conditions for and the manner of the purchase of an apartment for the occupancy right holders to whom the apartments have been returned in accordance with this Law shall be regulated by a separate law.

Article 29

The Minister of Refugees and Displaced Persons shall pass an instruction on the application of Articles 8 through 11 and Articles 15 through 18 of this Law within 30 days from the date of the entry into force of this Law.

Article 30

All proceedings commenced under the Law on the Use of Abandoned Property (RS Official Gazette, Nos. 3/96, 21/96) before the Law was repealed shall be terminated *ex lege*, regardless of the stage of the proceedings, with the exception of repossession claims to apartments which shall be processed in accordance with this Law.

Article 31

An apartment from Article 22 of this Law shall be administered by the Ministry for Refugees and Displaced Persons and used for the purpose of temporary use until all claims for the repossession of private property, made within 90 days of this provision coming into force, and for socially-owned property, made as defined in Article 16 of this Law, in that municipality are resolved. Upon expiration of this period, the apartment shall, after six months, be returned to the control of the allocation right holder pursuant to Article 22 of this Law. This paragraph shall apply to all apartments, whether or not they were declared abandoned.

The right to a temporary use of an apartment in terms of the previous paragraph shall be given to a person referred to in Article 35 of this Law, in accordance with the standard of Article 1a of this Law.

A temporary permit granted under this Article shall be given for a period of not longer than six months. The temporary occupant referred to in Paragraph 3 of this Article may request extension of the time limit for the use of apartment, to expire at the latest by the deadline specified in Paragraph 1.

In deciding on the claim for extension of the temporary permit, the competent authority must determine in a procedure whether the temporary user continues to be entitled to alternative accommodation pursuant to this Law. The competent authority can either issue a new temporary permit or indicate on the previous permit that the permit has been extended for another six months, including the expiration date of the permit. If the competent authority decides that the temporary user is not entitled to alternative accommodation, it shall order the temporary user to vacate the apartment within 15 days.

If the temporary user at any time ceases to meet the conditions for entitlement to alternative accommodation in accordance with the Law, the competent authority shall *ex officio* issue a decision canceling the temporary permit and ordering the temporary user to vacate the apartment within 15 days.

Article 32

A claim must also be filed under this Law for an apartment, which was damaged or destroyed, provided that the occupancy right holder of the apartment lost possession of the claimed apartment before 19 December 1998. If a claimed apartment is reconstructed, the claimant shall return into possession of the apartment without limitation or restriction.

As an exception to Article 16 of the Law, the occupancy right holder may file a claim for repossession of a destroyed or damaged apartment within 6 months of this Law coming into effect.

V. ENTITLEMENTS TO ALTERNATIVE ACCOMMODATION

Article 33

A person using a real property or an apartment without legal basis shall be evicted, at the latest within 15 days of the day of issuance of the decision, and the owner, possessor or user of the real property or the occupancy right holder of the apartment and/or any member of his/her household shall be entitled to repossess the real property or apartment without any restriction or limitation. The body responsible for providing alternative accommodation shall not be obliged to provide alternative accommodation under this Law to an illegal user.

The competent authority shall *ex officio* pass a decision to vacate a real property or apartment immediately, and at the latest within 15 days of the issuance of the decision, in cases where the current user is an illegal occupant. The affected person has the right to file an appeal against the decision, but the appeal does not suspend the eviction.

In a case of eviction an illegal user of a real property or apartment, relevant laws on displaced persons and refugees shall be applied to determine if s/he is entitled to accommodation. If the person is not entitled to accommodation under a law on displaced persons and refugees, the competent authority for social protection in the municipality where the real property or apartment is located shall determine whether such a person is entitled to any form of assistance. The failure of the competent authority to determine the entitlement of a temporary user or other user of a real property or an apartment to or provide accommodation or assistance shall not delay eviction.

Article 34

When a temporary user is required to vacate a real property or an apartment in accordance with the Law, the competent authority of the Ministry for Refugees and Displaced Persons shall determine whether the temporary user has the right to alternative accommodation under this Law.

In determining whether a temporary user is entitled to alternative accommodation, the competent authority shall determine in the procedure and within the deadlines for making a decision under Articles 9 and 11, and Articles 17 and 18 of this Law:

1. where the temporary user lived on 30 April 1991;
2. in what capacity the temporary user occupied the apartment or real property where s/he lived on 30 April 1991;
3. whether it is possible to live in the apartment or real property;
4. whether the temporary user or a member of his/her family household from 30 April 1991 currently possesses that apartment or real property;
5. whether s/he voluntarily exchanged or sold the apartment in question or real estate in his/her possession;
6. or any other relevant facts which show that the temporary user's housing needs are otherwise met.

In accordance with the previous paragraph, multiple occupants, as defined in Articles 24a and 24b of this Law, and temporary users who must vacate within 15 days from the date of the delivery of a decision under Article 11a or Article 18a of this Law, among others, shall not be entitled to alternative accommodation.

Article 35

A temporary user of a real property or an apartment who is required to vacate the real property or an apartment and is entitled to alternative accommodation in accordance with this Law shall be provided with alternative accommodation in accordance with this Law by the competent authority on the territory of which she/he had his/her latest residence. The temporary user shall be obliged to vacate the real property within the deadline set under Article 11 of this Law; or vacate the apartment within the deadline set under Article 18 of this Law.

As an exception, if the temporary user's 30 April 1991 house or apartment is uninhabitable or occupied, on the written request of the temporary user and pending the reconstruction or vacation of the 30 April 1991 house or apartment, the authority responsible for providing temporary accommodation shall be the competent authority responsible for housing affairs in the municipality where the 30 April 1991 house or apartment is located.

Article 36

In case that the Ministry for Refugees and Displaced Persons is unable to provide alternative accommodation, other responsible bodies including the Ministry for Urban Planning, the Ministry for Social Welfare, the Ministry of Defence, companies, firms and Municipalities shall be obliged to make available accommodation which is at their disposal for the purposes of providing alternative accommodation under this Law.

VI. PENALTY PROVISIONS

Article 37

The competent body shall be fined 1000 to 5000 KM for the following minor offences:

1. if it violates Article 1 of this Law and continues to apply the Law on Use of Abandoned Property;
2. if it fails to accept claims as set out in Article 8, or Article 15 of this Law;
3. if it fails to take into account the presumption that persons who have left their apartments between 30 April 1991 and 19 December 1998 shall be considered to be refugees and displaced persons under Annex 7 of the General Framework Agreement for Peace in Bosnia and Herzegovina, as set out in Article 14, paragraphs 1 and 2 of this Law;
4. if it fails to order in the Decision (Article 11, Paragraph 1 or Article 18, Paragraph 1 of the Law) the vacating of the real property or apartment within 15 days in accordance with Article 33 , paragraph 1 and Article 35 , paragraph 1 of the Law;
5. if it fails to allow immediate repossession by an owner, possessor, or user of a vacant real property, as set out in Article 11, paragraph 2, or Article 18, paragraph 3 of the Law;
6. if it fails to process an eviction request according to this Law and the *Law on General Administrative Procedures*;
7. if it fails to hand over the real property or apartment in accordance with Article 24 of the Law;
8. if it fails to take the required action against a multiple occupant, as set out in Article 24a, paragraph 3, or if it fails to issue a decision according to Article 24a, paragraph 5 of the Law.

The responsible person in the competent authority shall also be fined 200 to 1000 KM for a violation of paragraph 1 of this Article.

In addition to the above, a person who is a multiple occupant, as defined:

1. in Article 24a, paragraph 4, Items 1, 2, 3, or 7 of the Law and who fails to comply with the eviction order shall be fined 500 to 5000 KM;
2. in Article 24a, paragraph 4, Items 4 to 6 of the Law and who fails to comply with the eviction order shall be fined 250 to 1000 KM.

Penalty proceedings according to paragraphs 1 to 3 of this Article shall be carried out in accordance with the Law on Minor Offences. The local competency of the Court shall be determined according to the location of the seat of the competent body which violated the provisions of this Article or the seat of the competent body where the responsible person is carrying out his/her official duties, or the permanent residence of the multiple occupant.

Article 38

This Law shall enter into force on the 8th day after its publication in the Official Gazette of the Republika Srpska.