

# **Decision Enacting The Law On Amendments To The Law On Implementation Of The Decisions Of The Commission For Real Property Claims Of Displaced Persons And Refugees (FBiH)**

Tuesday, December 04, 2001

**In the exercise** of the powers vested in me by Article V of Annex 10 (Agreement on Civilian Implementation of the Peace Settlement) to the General Framework Agreement for Peace in Bosnia and Herzegovina, according to which the High Representative is the final authority in theatre regarding interpretation of the said Agreement on Civilian Implementation of the Peace Settlement; and considering in particular Article II.1.(d) of the last said Agreement, according to the terms of which the High Representative shall "Facilitate, as the High Representative judges necessary, the resolution of any difficulties arising in connection with civilian implementation";

**Recalling** paragraph XI.2 of the Conclusions of the Peace Implementation Conference held in Bonn on 9 and 10 December 1997, in which the Peace Implementation Council welcomed the High Representative's intention to use his final authority in theatre regarding interpretation of the Agreement on the Civilian Implementation of the Peace Settlement in order to facilitate the resolution of any difficulties as aforesaid "by making binding decisions, as he judges necessary" on certain issues including (under sub-paragraph (c) thereof) "measures to ensure implementation of the Peace Agreement throughout Bosnia and Herzegovina and its Entities";

**Recalling further** Article I:1 of the said Annex 10, referring explicitly to the promotion of respect for human rights and the return of displaced persons and refugees;

**Considering** the emphasis placed by the Peace Implementation Council on accelerating refugee return and on ensuring full and non-discriminatory implementation of the property laws of Bosnia and Herzegovina;

**Considering further** the need to implement in the most efficient and equitable manner legislation concerning property repossession throughout Bosnia and Herzegovina, and to ensure that the same is undertaken in a harmonised manner in each Entity;

**Conscious** of the vital need to ensure that such harmonisation is undertaken so as not to disadvantage returning Refugees and Displaced Persons, and so as to be in keeping with the spirit of Annex 7 of the General Framework Agreement for Peace in Bosnia and Herzegovina;

**Further conscious** that as a Dayton Institution, the Commission for Real Property Claims plays a vital role in fulfilling Annex 7 of the General Framework Agreement for Peace, and therefore implementation of its decisions is of the utmost importance;

Having considered and borne in mind all the matters aforesaid, I hereby issue the following:

## **DECISION**

enacting the law on amendments to the Law on Implementation of the decisions of the Commission for Real Property Claims of Displaced Persons and Refugees

The Law which follows shall enter into force as provided for in article 7 thereof on an interim basis, until such time as the Federation Parliament adopts this Law in due form, without amendment and with no conditions attached.

# **THE LAW ON AMENDMENTS TO THE LAW ON IMPLEMENTATION OF THE DECISIONS OF THE COMMISSION FOR REAL PROPERTY CLAIMS OF DISPLACED PERSONS AND REFUGEES**

## **Article 1**

In Article 4 of the Law on Implementation of the Decisions of the Commission for Real Property Claims of Displaced Persons and Refugees (Official Gazette of the Federation BiH, Nos. 43/99 and 51/00) in its amended form (hereinafter: the "Law"), a new Paragraph 3 shall be inserted as follows:

"If a request for enforcement of the Commission's decision is submitted by a person not named in the dispositive of the decision the administrative body shall decide whether s/he can be considered as a member of the family household of the occupancy right holder identified in the decision."

The current Paragraph 3 shall become Paragraph 4.

## **Article 2**

In Article 5, Paragraph 2 shall be amended as follows:

"The request for enforcement of a decision of the Commission confirming occupancy rights must be submitted within eighteen months from the date when the Commission decision was issued."

## **Article 3**

In Article 7, Paragraph 6 shall be amended as follows:

"If the requestor for enforcement has submitted a claim for repossession at the responsible administrative body in relation to the same property or apartment in accordance with the Law on Cessation of the Application of the Law on Abandoned Apartments or the Law on Cessation of the Application of the Law on Temporary Abandoned Real Property Owned by the Citizens and the requestor for enforcement subsequently submits a decision of the Commission for enforcement, the responsible administrative body shall join the proceedings for enforcement of both decisions and issue a conclusion on the permission of enforcement in accordance with this Article."

## **Article 4**

Article 11 shall be amended as follows:

"On receipt of a request for reconsideration, the Commission may notify the competent administrative body responsible for the enforcement of the Commission decision of the pending request for reconsideration.

The competent administrative body shall not suspend the enforcement of the Commission decision, unless it has received official notification from the Commission specifically requesting suspension pending the outcome of the reconsideration.

After examining the request for reconsideration, the Commission may:

- a. reject the request as being inadmissible, not submitted within due time or as submitted by an unauthorised person;
- b. reject the request as being unfounded; or
- c. accept the request, revoke its previous decision and issue a new decision.

The decision of the Commission accepting the reconsideration request and revoking its previous decision or refusing to admit or rejecting the reconsideration request shall be delivered to the person who requested the reconsideration and all other persons who received the original decision, and to the administrative body responsible for enforcement."

#### **Article 5**

Article 12 shall be amended as follows:

"The appeal against the conclusion on the permission of enforcement of the decision of the Commission, referred to in paragraph 2 of Article 10 of the Law, shall be submitted to the responsible second instance body in accordance with the Law on Administrative Procedure by the administrative body that issued the conclusion on the permission of enforcement, within 8 days from the date of delivery of the conclusion on the permission of enforcement.

The grounds for the appeal shall be limited to the following:

- a. the decision of the Commission upon which the conclusion on the permission of enforcement was based has not been issued at all or is revoked by the Commission in its reconsideration proceedings;
- b. whether the enforcer is entitled to alternative accommodation or the time limit provided for the enforcer to vacate the property is in accordance with the applicable laws; or
- c. other reasons for appeals against conclusions on the permission of enforcement which are in accordance with the Law on Administrative Procedure."

#### **Article 6**

After Article 12, a new Article 12a shall be inserted as follows:

##### **"Article 12a**

The responsible administrative body shall direct the appellant to initiate proceedings before the competent court within 30 days to prove that the right holder named in the Commission's decision voluntarily and lawfully transferred his/her rights to the appellant since the date referred to in the dispositive of the Commission's decision.

The competent court may make a specific order to suspend the enforcement proceedings before the responsible administrative body pending the court's decision where the appellant can show evidence of a written contract on the transfer of rights in accordance with domestic law and irreparable damage to the enforcer if the enforcement proceedings continued."

#### **Article 7**

This Law shall be published without delay in the Official Gazette of the Federation of Bosnia and Herzegovina and shall come into force eight days after the date of such publication.

Sarajevo, 4 December 2001

Wolfgang Petritsch

High Representative