

HOW TO CLAIM REPOSSESSION OF YOUR PRIVATE PROPERTY IN THE REPUBLIKA 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 10 February 1999). ¹ 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.

1. Who can claim?

Claims for private property should be filed by the owner/possessor/user. Private owners/possessors/users can appoint a proxy (*punomocnik*) 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).

2. 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 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, (*preporuceno*), 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.

3. What information?

Your claim must contain the following information:

- a) personal data of the owner/possessor/user, which should include: name/surname, status of claimant, (owner/possessor/user);
- b) data and address relating to claimed property, including date the ownership right was obtained;
- c) contact address and details of claimant or authorised representative where necessary;
- d) 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);
- e) signature of the claimant, or her/his authorised representative.

4. 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).

5. 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.

6. 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.

7. 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.

8. REMEMBER:

1. It is not possible to fax claims.
2. The authorities are not allowed to levy any taxes or administrative fees relating to the claims process.
3. There is no deadline for filing claims for private property and no time limit for return to the property.
4. 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.

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

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