

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 10 February 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.

1. 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 (*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 (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).

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 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, (*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:

1. a) personal data of the occupancy right holder or member of family household; including name/surname, status of claimant (occupancy right holder, family household);
2. b) data and address relating to claimed apartment, including name of allocation right holder and date the occupancy right was obtained;
3. c) contact address and details of claimant or authorised representative where necessary;
4. d) 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);
5. e) a statement that the claimant was either the occupancy right holder or a family household member at the time the apartment became abandoned;
6. f) 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 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. a) a contract on use of the apartment;
2. b) a contract on the exchange of the apartment;
3. c) a court decision confirming the occupancy right; OR
4. 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).

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 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.

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, 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 Ombudsperson 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.

7. 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.

8. 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 that the decision becomes final, they face permanent loss of their occupancy right (unless an exception applies as outlined in the Law).

REMEMBER:

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

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.