

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

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/ownership certificate
- 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 which confirms 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