Law on the Cessation of the Application of the Law on Temporary Abandoned Real Property Owned by Citizens

– unofficial translation –

From the day of the entry into force of this law, the Law on Temporary Abandoned Real Property Owned by Citizens (Official Gazette RBiH 11/93, 13/94 – hereinafter: the Law) and regulations regulating the issue of temporary abandoned property owned by citizens in the period between 30 April 1991 and the entry into force of this law, shall cease to applied on the territory of the Federation of Bosnia and Herzegovina (hereinafter: the Federation).

Article 2

From the day of the entry into force of this Law, the bodies and authorities of the Federation and other bodies in the Federation (hereinafter: the competent authorities) shall refrain from undertaking any new actions by which real property owned by citizens is declared abandoned or placed under municipal administration.

Article 3

Real property declared abandoned and placed under municipal administration on the basis of the Law on Temporary Abandoned Real Property Owned by Citizens shall remain under municipal administration until the return of the real property to the owner pursuant to the provisions of this Law.

Article 4

Owner of the real property declared abandoned shall have the right to file a claim for the return of the real property at any time.

Exceptionally, claims for repossession of real property may also be made by persons who were in unconditional possession of the real property at the time it was declared abandoned.[1]

Article 5

For the purpose of this Law, the owner shall be understood to mean a person which, according to the legislation in force, was the owner of the real property at the moment when that property was declared abandoned.

The owner of the real property may authorise another person to submit the claim for the return of the real property.

Article 6

The user to whom the real property has been allocated for temporary use on the basis of the Law on Temporary Abandoned Real Property (hereinafter: the temporary user), shall continue to use the real property under the conditions and in the manner which were prescribed by the Law on Temporary Abandoned Real Property, until the issuance of a decision under Article 12 of this Law.

Article 7

If a temporary user who has been ordered to vacate the property pursuant to the provisions of this Law has no possibility to return to the apartment *or real property*[2] in which he was living until 30 April 1991 and no other housing unit satisfying the requirements of emergency or appropriate accommodation has been provided to him/her, the competent service of the municipality on the territory of which s/he enjoyed the latest domicile or residence shall, within the deadline set by the decision for his/her vacation of the property, provide him/her with an emergency accommodation or an appropriate accommodation if, pursuant to Article 8(4) of the Law on Housing Relations, this person cannot be lodged in an emergency accommodation.

The authorities responsible to provide an emergency accommodation shall not be obliged to provide either an emergency or appropriate accommodation to persons occupying the property without a valid legal title.

In no event shall the failure of the municipality to meet its obligations under Paragraph 1. of this Article operate to delay the ability of the owner to reclaim his property.

Article 8

For the purposes of this Law, an emergency accommodation shall be understood to mean the emergency accommodation pursuant to Article 8 of the Law on Housing Relations (Official Gazette of SR BiH 4/84, 12/86, 36/89).

Article 9

Parties in proceedings instituted at the owner's request for repossession of the real property shall be the owner of the real property and the temporary occupant at the time the request was submitted.

II. RETURN OF REAL PROPERTY TO THE OWNER

Article 10

The owner of private property has the right to claim at any time from the competent authorities the repossession of his/her property which has been declared abandoned or allocated for temporary use.

Article 11

A claim for repossession of a property under Article 10 of this Law shall be filed by the owner to the competent municipal, city or cantonal administrative body competent for property – law affairs.

The claim shall be submitted in writing, signed by the owner or orally, in person by the owner or an authorised representative. A claim should include:

1. all necessary information on the property;
2. any evidence in possession of the claimant that the claimant is the owner;
3. the date when the owner intends to reoccupy the property.

The claim for repossession of property referred to in Paragraph 1 of this Article shall not be subject to the statute of limitations.

Article 12

Upon the receipt of the owner's claim for the return of the property, the competent body shall issue a decision on the return of the property to the owner within a period of 30 days from the date of the receipt of the claim.

The decision referred to in paragraph 1 of this Article by which the owner's claim is accepted shall contain:

1. a decision terminating the municipal administration of the property as of the date of the intended return;
2. a decision on repossession of the property by the owner;
3. a decision terminating the right of the temporary user to use the property as of the date of the intended return of the owner;
4. a time limit for vacating the property by the temporary user or the person using the property without a valid legal title, or the time limit for returning the land;
5. a decision whether the temporary user is entitled to emergency accommodation.

The deadline for vacating the property, referred to in Paragraph 2(4) of this Article may not be shorter than 90 days from the date of the issuance of the decision, nor longer than the day of intended return of the owner and the day of intended return may not be earlier than 90 days from the date of submitting the claim for return of the property.

Exceptionally from the provision of paragraph 3 of this Article, the deadline for vacating the property for an illegal user, or a temporary user of the property who is not entitled to alternative accommodation, shall be 15 days from the date of delivery of the decision referred to in paragraph 1.[3]

In exceptional circumstances, the deadline referred to in Paragraph 3 of this Article may be extended to up to one year if the municipality responsible for providing alternative accommodation in accordance with Article 7(1) of this Law provides detailed documentation regarding its efforts to secure alternative accommodation to the Federation Ministry of Urban Planning and Environment, and upon a finding by the Ministry that there exists a documented absence of available housing in the municipality, *which shall be agreed upon by the Office of the High Representative*[4].

In case of the return of arable land, the time limit referred to in Paragraph 2 (4) of this Article may be extended until the harvest is completed.

Article 13

The competent authority must notify the owner of the property and the temporary user of the property.

Any appeal against the decision must be submitted to the cantonal administrative body competent for the property law affairs within 15 days from the date of receipt of the decision.

An appeal shall not suspend the execution of the decision.

Article 14

A party affected by a decision made under Article 12 may at any time file a claim to the Commission for Real Property Claims of Displaced Persons and Refugees (GFAP, Annex 7, hereinafter the Property Commission).

In the event that a proceeding from Paragraph 1 of this Article is initiated, all other proceedings before the competent authorities, including the enforcement of decision referred to in Article 12 of this Law, shall be stayed pending the final decision of the Property Commission.

A decision of the Property Commission is final and binding.

Regarding the rights and obligations of a party referred to in Paragraph 1. of this Article, the decision of the Property Commission shall have the same legal force as a decision of any other competent authority made in accordance with this Law.

Article 15

The return of the property to the owner shall be witnessed by an official of the competent office of the municipality referred to in Article 11, paragraph 1 of this Law.

The return of the property and the entering into possession by the owner shall be recorded in the minutes including, among other things, a detailed description of the current state of the premises and the movable property therein.

Article 16

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

The enforcement shall be carried out at the request of the owner.

Article 17

The proceedings for the repossession of real property by the owner as determined in this law and proceedings of the compulsory enforcement referred to in Article 16 of this law shall be carried out in accordance with the Law on General Administrative Procedure (Official Gazette 2/92 and 13/94) which is applicable in the territory of the Federation until the competent authorities decide otherwise, based on Article IX.5 (1) of the Federation Constitution.

Article 17a[5]

The provisions of this Law shall also apply to real property owned by citizens which was not declared abandoned in accordance with the regulations referred to in Article 1 of this Law, if the owner abandoned the real property before 4 April 1998.

All binding court decisions which order the return of real property to the possession of the owner shall be enforced by the court.

Pending proceedings on the return of real property to the possession of the owner will continue, while new claims for the return of property shall be submitted to the responsible organ under Article 11 of this Law.

Article 18

This law shall enter into force on the day following its publication in the “Official Gazette” of the Federation of Bosnia and Herzegovina.[6]

1 Introduced by the High Representative’s Decision, 1 July 1999; published in the FBH Official Gazette, no. 27/99.

2 Amended by the High Representative’s Decision, 1 July 1999; published in the FBH Official Gazette, no. 27/99.

3 Art.12(3) was introduced by the High Representative’s Decision, 1 July 1999; published in the FBH Official Gazette, no. 27/99. Therefore, previous paragraphs 4 and 5 became paragraphs 5 and 6.

4 Amended Art.12(4), published in FBH Official Gazette, no. 29/98.

5 Art.17a was introduced by the High Representative's Decision, 1 July 1999; published in the FBH Official Gazette, no. 27/99.

6 Amendments to the Law introduced by the High Representative's Decision entered into force on 6 July 1999, the day after its publication in the FBH Official Gazette (published in the FBH Official Gazette on 5 July 1999, no. 27/99).

Office of the High Representative