

Legal Guidelines on Processing Multiple Occupancy Reports by the Housing Verification & Monitoring Unit (HVM)

Legal Guidelines on Processing Multiple Occupancy Reports by the Housing Verification & Monitoring Unit[1] (HVM)

1. Processing of multiple occupancy cases

1.1. Multiple occupants identified by HVM in private property

1.1.1. claimed and decision already issued: if a decision setting out a 15-day deadline to vacate has already been issued, the competent authority *ex officio* shall immediately issue a conclusion on enforcement; if a decision setting out a 90-day deadline to vacate has already been issued, the competent authority *ex officio* shall immediately issue a new decision specifying a deadline to vacate 15 days from the date of its delivery and then a conclusion on enforcement[2]

1.1.2. claimed, decision not yet issued: the competent authority *ex officio* shall immediately issue a decision specifying a deadline to vacate 15 days from the date of its delivery and then a conclusion on enforcement[3]; the vacated property can be used as alternative accommodation if the owner freely agrees to rent her/his private property to the municipality; the competent authority must inform the municipality where the owner currently resides that the owner may repossess her/his property and has thus become a multiple occupant if s/he is occupying abandoned property[4]

1.1.3. unclaimed: the competent authority shall *ex officio* pass a decision to vacate the real property immediately in cases where the current user is a multiple occupant; the property should be sealed; owner loses her/his right to entitlement for alternative accommodation if s/he has not claimed her/his property or requested enforcement of a decision (rjesenje ili odluka CRPC-a) by February 28, 2002[5]. The competent authority should take all reasonable steps to contact the pre-war owner and offer him/her the opportunity to rent the property to the municipality for use as alternative accommodation; the competent authority must inform the municipality where the owner currently resides that the owner has repossessed her/his property and has thus become a multiple occupant if s/he is occupying abandoned property. However, unclaimed private property cannot be used as alternative accommodation without the agreement of the owner.

1.1.4. repossessed: if the owner has already repossessed the property and made a contract with the HVM beneficiary allowing them to remain, they are not a double occupant. However, the contract must have been made after the repossession and the competent authority must inform the municipality where the owner currently resides that the owner has repossessed her/his property and has thus become a multiple occupant if s/he is occupying abandoned property.

1.2. Multiple occupants in socially owned property

1.2.1. claimed and decision already issued: if a decision setting out a 15-day deadline to vacate has already been issued, the competent authority *ex officio* shall immediately issue a conclusion on enforcement; if a decision setting out a 90-day deadline to vacate has already been issued, the competent authority *ex officio* shall immediately issue a new decision specifying a deadline to vacate 15 days from the date of its delivery and then a conclusion on enforcement[6]; the competent authority may temporarily allocate the apartment for use as alternative accommodation if the occupancy right holder does not repossess it within 30 days of receipt of notification that the apartment is empty[7]; the competent authority has to inform the municipality where the occupancy right holder currently resides that the occupancy right holder has free access to his apartment and has thus become a multiple occupant in his current accommodation if s/he is occupying abandoned property[8]

1.2.2. claimed, decision not yet issued: the competent authority *ex officio* shall immediately issue a decision specifying a deadline to vacate 15 days from the date of its delivery and then a conclusion on enforcement[9]; the competent authority may temporarily allocate the apartment for use as alternative accommodation if the occupancy right holder does not repossess it within 30 days of receipt of notification that the apartment is empty[10]; the competent authority has to inform the municipality where the occupancy right holder currently

resides that the occupancy right holder has free access to his apartment and has thus become a multiple occupant in his current accommodation if s/he is occupying abandoned property[11]

1.2.3. unclaimed: the competent authority shall *ex officio* pass a decision to vacate the socially-owned property immediately in cases where the current user is a multiple occupant[12]; the apartment has to be used as alternative accommodation; and the pre-war occupancy right holder loses right to alternative accommodation[13]

1.2.4. all temporary and permanent occupancy rights to and allocations of socially-owned apartments created during and after the conflict period are cancelled by law.[14] In any case in which such an occupancy right or allocation has been revalidated in the name of a beneficiary or their family household member, including where the apartment has subsequently been purchased on the basis of such a revalidation, action should be suspended only pending review of the legality of the revalidation.[15]

2. Household

Under the property laws, a temporary occupant/reconstruction beneficiary's "family household" includes their 1991 family household; any spouse, parents or children of the beneficiary even if they were not members of the 1991 household; and any registered current household members even if not 1991 household members[16]. Beneficiaries of reconstruction assistance identified as multiple occupants by HVM and their family household members as defined above do not have the right to alternative accommodation[17]. A divorced spouse is included in the term 'temporary user' in any case where she/he was a member of the reconstruction beneficiary's family household on 30 April 1991 or is registered as a member of the reconstruction beneficiary's current household. Both former spouses still have a legal interest in the property and it is up to them to decide how to divide their assets.

3. Basic living conditions

If the owner has access to his property (i.e. a reconstructed home) and it is sufficiently intact to provide for basic living conditions, s/he is a multiple occupant as defined in the property laws and she/he is not entitled to alternative accommodation.[18] In this sense, access to water can mean, among other things, (1) plumbing in the house and a nearby water main, even if there is no connection or (2) an accessible well in the area. Access to electricity can mean, among other things, wiring in the house and a nearby electric line, even if there is no connection; or a connection even if the electricity is not yet being delivered. The requirement of access to electricity is also satisfied in cases of a single house or a community small enough to be powered by electronic generator, whether or not such a generator is currently available. A heating source can be a fireplace or a wood stove. Basic privacy and security of belongings means external walls. Under no circumstances can eviction of a multiple occupant reconstruction beneficiary be delayed pending the availability of amenities (i.e. wiring or plumbing) that did not exist in the house in 1991.

All reconstruction beneficiaries and their family household members lose their right to alternative accommodation immediately upon being informed that their home has been reconstructed and is habitable. If they fail to return to their reconstructed home and it is damaged, looted, or illegally occupied in the meantime, this does not affect the status of the beneficiaries and their family household members. They remain multiple occupants and must immediately be evicted from abandoned property in accordance with law.

4. Size of reconstructed house

The size of the property (reconstructed house) cannot operate to delay or prevent the eviction of the owner from his current accommodation, so long as the property provides basic living conditions, as defined above. Provisions setting a minimum size standard for alternative accommodation (5 square meters per person) do not apply to multiple occupant reconstruction beneficiaries and their households, even where the household has increased in size since 1991.[19]

5. Residence in BiH

Whether the occupancy right holder or owner of the property temporarily occupied by the reconstruction beneficiary is residing in BiH is irrelevant to the enforcement of an eviction order issued against the current occupant. The current occupant's obligation to vacate is an independent obligation created by the eviction decision.

[1] This instruction based on the Law on the Cessation of the Application of the Law on Abandoned Apartments (FBH LoC SOP) published in the Federation BiH OG No. 56/01; Law on the Cessation of the Application of the Law on Temporary Real Property owned by Citizens (FBH LoC PP) published in the Federation BiH OG No. 56/01; Law on the Cessation of Application of the Law on the use of Abandoned Property (RS LoC) published in the Republika Srpska OG No. 65/01; Instruction on Information Exchange on sealed and repossessed property published in the State BiH OG 30/01

[2] FBH LoC PP Art. 12a para. 4/ RS LoC Art. 11a para. 4

[3] FBH LoC PP Art. 12a para. 4/ RS LoC Art. 11a para. 4

[4] FBH LoC PP Art. 15 para. 4/ RS LoC Art. 9 para. 4

[5] FBH LoC PP Art. 12a para. 3/ RS LoC Art. 11a para. 3

[6] FBH LoC SOP Art. 7a para. 3/ RS LoC Art. 18a para. 4

[7] FBH LoC SOP Art. 12/ RS LoC Art. 21

[8] FBH LoC SOP Art. 9 para. 4/ RS LoC Art. 24

[9] FBH LoC SOP Art. 7a para. 4/ RS LoC Art. 18a para. 4

[10] FBH LoC SOP Art. 12/ RS LoC Art. 21

[11] FBH LoC SOP Art. 9 para. 4/ RS LoC Art. 24

[12] FBH LoC SOP Art. 11 para. 3/ RS LoC Art. 24a para. 3

[13] FBH LoC SOP Art. 7a para. 3/ RS LoC Art. 18a para. 3

[14] FBH LoC SOP Arts. 2 and 16/RS LoC Art. 2. There are no legal grounds whatsoever for owners ("allocation right holders"), including the Entity Ministries of Defense, of socially owned apartments regulated under the property laws to delay or prevent legal evictions undertaken in accordance with the property laws.

[15] FBH LoC SOP Art. 18e/ RS LoC Art. 27

[16] FBH LoC PP Art. 16 para. 7/ FBH LoC SOP Art. 11 para. 7/ RS LoC Art. 24a para. 7

[17] FBH LoC PP Art. 16a/ FBH LoC SOP Art. 11a/ RS LoC Art. 24b

[18] FBH LoC PP Art. 16 para. 4/ FBH LoC SOP Art. 11 para. 4/ RS LoC Art. 24a para. 4

[19] FBH LoC SOP Art. 11 para. 5/ FBH LoC PP Art. 16 para. 5/ RS LoC Art. 24a para. 5