

# **Information Sheet No. 1 - Information Sheet on the New Federation Property and Housing Laws**

## **The Law Regulating Application of the Law on Temporarily Abandoned Real Property Owned by Citizens**

1. This law applies only to private property.
2. The law supersedes the *Law on Temporarily Abandoned Real Property Owned by Citizens*, which was introduced during the war and provided that if the owners of private property left after 30 April 1991, the authorities could declare the private property “abandoned” and grant temporary occupancy rights to a third party. Importantly, ownership rights were not permanently affected by the *Law on Temporarily Abandoned Real Property*, and the owner could return at any time and reclaim the property. However, the right of owners to reclaim their property was not effectively implemented under the law largely because it did not provide a realistic procedure for repossessing property and addressing the needs of current users.
3. Under the new law, owners of private property may file a claim to reclaim their property at any time. The authorities must decide on such claims within 30 days. If the property is vacant, or occupied illegally, the owner may move in immediately following the decision on the claim. If the property is occupied by an authorised temporary user, the current occupant has 90 days to vacate the property. In exceptional circumstances, this deadline may be extended up to one year, but only if the authorities can demonstrate to OHR that other accommodation for the current occupants is not available.

## **The Law on Cessation of the Application of the Law on Abandoned Apartments**

1. This law applies to “socially-owned” apartments, i.e. apartments for which persons were given occupancy rights by companies, governmental organs, or social organisations. Occupancy rights were subject to substantial regulation before the war, in particular under the *Law on Housing Relations*.
2. During the war, the *Law on Abandoned Apartments* was introduced. This law permitted the authorities to declare socially-owned apartments whose occupants had left as “abandoned,” and to grant temporary occupancy rights to the apartment to other persons. On 22 December 1995, the law was amended so that if people did not claim and re-occupy their apartment by 6 January 1996, their apartment was declared permanently abandoned and could be permanently reallocated to a new occupant. This law blocked the return of tens of thousands of refugees and displaced persons to their pre-war homes.
3. Under the new law, all decisions terminating the occupancy rights of refugees and displaced persons are null and void. Pre-war occupants, or their authorised representatives, must file claims for repossession of their apartment. Instructions will soon be issued which will clarify the procedures to be followed in filing claims.
4. Claims by pre-war occupants must be filed within six months after the law comes into force. The claim must contain an intended date of return which must be within one year of the date the claim is submitted. *Pre-*

*war occupants who do not meet the six-month filing deadline, or who fail to return within one year of the date a decision on their claim is made, face permanent loss of their occupancy rights.*

5. The authorities must issue a decision within 30 days of the date a claim is filed. These decisions will confirm pre-war occupancy rights, terminate rights of temporary use of the apartment, and set a deadline by which the current user of the apartment must move out. As there are different categories of current users of apartments, and some apartments are vacant or uninhabitable, this time period will vary:
  1. if an apartment is vacant or occupied illegally, the pre-war occupant can repossess the apartment immediately;
  2. an authorised temporary user will be given 90 days to vacate the apartment which can be extended if the pre-war occupant's nominated return date is later;
  3. if the apartment is occupied by a person who has received a permanent occupancy right prior to 7 February, 1998, the case may be referred for an additional decision concerning whether the pre-war occupant should be allocated a different apartment, allowing the current occupant to remain in place. This decision must be made according to specific criteria which comply with *Annex 7* of the Peace Agreement and the European Convention on Human Rights and Fundamental Freedoms and its Protocols. These criteria are now being developed.
  4. Authorised users of apartments must be provided with alternative accommodation by the responsible authorities within the time period set by the law for repossession of the apartment by the pre-war occupant.

## **The Law on Taking Over the Law on Housing Relations**

1. This law also applies to "socially owned" apartments, and simply amends the Law on Housing Relations, a pre-war statute that regulates use of housing with the occupancy right. Under the *Law on Housing Relations*, an occupancy right can be canceled when the occupant has not resided in the apartment for a continuous period of six months, except in certain limited circumstances (e.g. the occupant is serving in the military or undergoing medical treatment).
2. The amendment provides that occupancy rights cannot be cancelled automatically for failure to use an apartment since 30 April 1991, if the occupancy right holder is a person with the right to return under Annex 7. The amendment also provides that persons who left their apartments after 30 April 1991 are presumed to be refugees and displaced persons under *Annex 7*, absent a showing that they left their apartments for reasons wholly unrelated to the conflict. These persons must still meet a deadline to file a claim, either under this law or under the Law on the Cessation of the Application of the Law on Abandoned Apartments.

## **Purchase of Apartments with the Occupancy Rights (Privatisation)**

1. The *Law on Sale of Apartments with the Occupancy Rights* came into force on 6 December 1997, and provides that applications to purchase socially-owned apartments under the Law could be filed from 6 March 1998. However, under an amendment to the law adopted on 4 March 1998, persons who acquired occupancy rights to apartments that were declared "abandoned" since 1991, are not

permitted to purchase the apartments in which they now reside. This amendment does not affect occupancy right holders who never left their apartments.

2. At the same time, under the *Law on the Cessation of Application of the Law on Abandoned Apartments*, pre-war occupants who left their apartments during the war will not be able to purchase their apartments until they have returned and resided in the apartment for six months. In addition, such pre-war occupants will not be permitted to sell the apartment for a period of five years from the date the purchase of the apartment is registered.

## **Implementation of the Federation Laws**

The first three laws were published in the Official Gazette on 3 April 1998 and came into force on 4 April 1998. As noted above, implementation of the new laws will require the preparation of detailed instructions on the claims process and criteria for decision-making in certain cases. In addition, a broad public information campaign will be essential to ensure that all persons are informed of their rights under the laws, and in particular of the deadlines for filing and return set in the Law on the Cessation of the Application of the Law on Abandoned Apartments. Effective monitoring of the implementation of the laws will be also be necessary, to ensure that any breaches or inconsistencies in application of the laws are promptly redressed. International organisations are working with the responsible Federation authorities to address these issues.

## **Amendment of Property Laws in the Republika Srpska**

Property laws in the Republika Srpska also violate international standards and obstruct return. Until recently, there had been no progress in efforts to amend these laws. However, since the establishment of the new RS Government, a working group has been established to develop property and housing law amendments for submission to the RS government. Initial drafts have been prepared, and OHR is working with the RS authorities to ensure that the proposed laws comply with Annex 7 and are consistent with the laws adopted within the Federation.