Abandoned Property Legislation

As the designated final authority regarding interpretation of the civilian aspects of the Peace Agreement, the Legal Department of the Office of the High Representative (OHR) recently prepared an opinion on the question whether or not property legislation applicable in Bosnia and Herzegovina is in compliance with the Dayton Peace Agreement. The opinion concluded that both the Republika Srpska Law on the Use of Abandoned Property and the BH Law on Abandoned Apartments are in violation of several provisions of the Dayton Peace Agreement, as well as of the provisions of the European Convention of Human Rights. In particular, the right to return, the right to property and the right to a fair and public hearing are infringed by this legislation. These rights are similarly affected by the BH Law which annuls purchase contracts regarding former-JNA apartments, as well as by the BH Law on Temporary Abandoned Property.

At a meeting (end of September) chaired by the Office of the High Representative and with the participation of Representatives of Bosnia and Herzegovina, the Republika Srpska, the Federation, OSCE, IFOR, UNMBiH and UNHCR, the Parties recognized that existing legislation was not in conformity with these instruments and that new legislative measures were needed which should be harmonized in both Entities. It was agreed, therefore, that existing laws would be suspended and repealed and that new legislation would be adopted at one of the first sessions of the newly-elected Assemblies.

The new legislation is currently being drafted by both the Federation and Republika Srpska and will be discussed with OHR and other interested organizations. The Office of the High Representative is offering all necessary assistance to the

Parties so as to ensure that the new legislation restores the rights of owners and holders of occupancy rights, taking into account, at the same time, the needs of those who currently occupy the latters' property and have presently no other shelter.

The safe and voluntary return of refugees and displaced persons to their homes is a fundamental objective of the Peace Agreement. It is essential that all relevant legislation upholds this right, while at the same time providing appropriate alternatives for persons currently residing on a temporary basis in the homes of those who wish to return. The Office of the High Representative will continue to pursue this objective with all the means at its disposal.