

High Representative imposes amendments to Property Laws

The High Representative, Wolfgang Petritsch, yesterday issued a package of thirteen Decisions comprehensively amending the property laws of both Entities. Changes were urgently needed, as the increase in the pace of property law implementation has stalled over recent months, forcing many people to wait before repossessing property, often in makeshift shelters. Many others are being prevented from privatising their apartments. The amendments will reduce the possibility of manipulation and delay, allow for the speedier eviction of multiple occupants, and ensure the full right of refugees and displaced persons to “freely return to their homes of origin”, as guaranteed by the Dayton Peace Agreement.

More than six years after Dayton and nearly a decade after many people were forced to flee their homes, approximately one third of all property claims in Bosnia and Herzegovina have resulted in repossession. Returnees’ associations, interest groups and activists, as well as housing officials, from across Bosnia and Herzegovina have expressed concern that legal measures, discussed for more than six months, are still not in place. Moving this process forward now will benefit the development of Bosnia and Herzegovina as a functioning state, and will best serve the interests of refugees, who most often form the most vulnerable levels of society.

The amendments ensure full harmonisation of the laws throughout Bosnia and Herzegovina, and they seek to facilitate swifter and more efficient implementation of the laws and limit the widespread waste of alternative accommodation.

The amended laws specifically take account of the fact that many categories of persons may be considered to have had their housing needs met, including those who accept land plots or housing construction assistance and have sufficient time to build, and those who show no interest in filing a claim for their property, or in pursuing enforcement of their claims.

- The new law sets a specific income threshold, which defines whether families may or may not claim that they have insufficient income to meet their housing needs: this threshold will be based on the standard “consumer basket” set by the Entity statistics institutes.
- All purchases of apartments where the purchase is based on a revalidated contract to an unclaimed apartment will be frozen, pending establishment of a proper review process. Unclaimed apartments are to be used as alternative accommodation, unless the temporary occupant meets strict criteria for revalidating the occupancy right. Previously, many individuals who did not meet the criteria were able to revalidate and then privatise. Thus a large source of alternative accommodation for vulnerable individuals was lost. The new amendments provide for stricter review of all revalidations and subsequent privatisations.
- People who are unable for reasons of their own to repossess their property in person do not have to miss the deadline for repossession but can send a proxy instead.
- The deadline for repossession of apartments will be reduced from 90 days to 30 days.
- Fines for multiple occupancy will be introduced.
- The appeals process has been tightened, with the claimant’s case upheld if the appeals body does not respond before expiry of the deadline. This will eliminate the long periods — in some cases as much as a year or more — which some claimants have had to wait for cases to come back from the second instance body.
- The burden of proving that someone meets the criteria for alternative accommodation will be placed upon the current occupants. If they cannot prove they meet all criteria, they will be issued with 15-day decisions. This will also reduce the time previously spent by housing authorities attempting to document occupants’ cases.
- Problems arising from property exchanges will be regulated. Contracts on exchange will be confirmed in cases where both parties agree the exchange was voluntary. If only one party claims, the other party will be deemed to have claimed even if a deadline has passed. And in cases of exchanges of property outside of BiH the party outside of BiH will have to prove that the property they currently possess can be returned to the pre-war owner/occupant.
- Instructions enabling the purchase of apartments in the Federation have been established following the receipt of numerous complaints from citizens who currently face excessive demands for documentation, and are unable to purchase their apartments following repossession. The instructions regulate the documentary requirements for purchase, and the obligations of the competent bodies. The documentary evidence that can be requested by the authorities is defined and limited by the new instruction for the Federation.

The amendments will be accompanied by a public information campaign ensuring that occupants and claimants of property are properly informed of those changes to the legislation that may concern them.

The amendments were drafted in close partnership with the relevant Entity ministries, the State Ministry of Human Rights and Refugees and the PLIP agencies. They also contain suggestions from numerous housing offices and DP and refugee associations throughout the country. The urgency of the situation and the pressing need to raise implementation rates require that the amendments be introduced with all possible speed. Fuller compliance with the obligations undertaken in Annex 7 of the Dayton Peace Agreement is essential for the future development of Bosnia and Herzegovina. The results we all see today are simply not good enough, and time is growing short.

The High Representative has in these Decisions amended the following laws: the Law on Cessation of the Application of the Law on Abandoned Apartments, with the Law on Cessation of the Application of the Law on Abandoned Real Property Owned by Citizens, of the Federation, and the RS Law on Cessation of Application of the Law on the Use of Abandoned Property. Amendments have also been made to the RS and Federation Laws on Displaced Persons and Refugees, and to the Law on Implementation of the Decisions of the Commission for Real Property Claims (CRPC). A Federation Instruction on the purchase of apartments by occupancy right is also introduced under this package, together with a freeze on purchases where contracts have been revalidated after April 1992.