

Decisions by the High Representative on Property Laws

The High Representative Carlos Westendorp continues to be very concerned about inequities in the laws and administrative practices of the Federation of Bosnia and Herzegovina relating to the rights of refugees and displaced persons to return to their homes. The procedures for repossessing both private and socially-owned property, which were established in April 1998, are not functioning effectively. Although there have been improvements in the situation during 1998, the goals of Annex 7 of the Dayton Agreement are still a long way from being realized.

The High Representative recognizes that there are genuine practical difficulties in implementing these laws, particularly regarding the provision on the allocation of alternative accommodation to displaced persons who live in apartments with a pre-war occupancy right. He has therefore recommended that the suspension on the implementation of housing projects in Sarajevo by the European Commission be lifted, to assist with increasing the available housing stocks. Nonetheless, it is clear that there has not been adequate commitment on the part of the Federation Government to the proper management of the existing housing stocks.

The High Representative is unable to accept the Criteria adopted by the Federation Government on the reallocation of apartments under Article 3, paragraph 6 of the Law on Cessation of Application of the Law on Abandoned Apartments. These were adopted while negotiations with the OHR were still underway, and despite reservations expressed by senior members of the Government and the Government Legislation Office. The adopted Criteria are clearly contrary to Annex 7 and open the possibility that returning families may both lose their pre-war apartment and be denied an alternative apartment. That could affect pre-war tenants of some 12,000 apartments in Sarajevo and of large numbers of apartments in other Federation towns.

The High Representative calls upon the Government of the Federation to undertake a comprehensive review of all laws, regulations and administrative practices relating to property and housing, in consultation with OHR and other interested international organizations. The purpose of the review is to find a proper balance between the rights of those who wish to return to properties in the Federation, and the rights of displaced persons now living in the Federation, and to allow for the progressive implementation of Annex 7.

Until this review is complete, the High Representative considers it necessary to act to prevent refugees and displaced persons from permanently losing their right to return to their pre-war home. The High Representative has therefore taken the following Decisions:

1. Article 3, paragraph 6 of the Law on the Cessation of Application of the Law on Abandoned Apartments is suspended. This is the provision allowing pre-war occupants to be allocated an alternative apartment in cases where there are two occupancy rights for the same apartment.
2. The sale of apartments to persons who acquired an occupancy right to an apartment after 30 April 1991 is suspended.

These measures do not change the law, nor do they permanently alter the rights of any person. However, they prevent any further deterioration in the legal situation of refugees and displaced persons, until various problems with the existing laws are addressed. The Decisions will remain in force until further notice.