

Decision Enacting the Law on Amendments to the Law on the Implementation of the Decisions of the Commission for Real Property Claims of Displaced Persons and Refugees of the FBiH

In the exercise of the powers vested in me by Article V of Annex 10 (Agreement on Civilian Implementation of the Peace Settlement) to the General Framework Agreement for Peace in Bosnia and Herzegovina, according to which the High Representative is the final authority in theatre regarding interpretation of the said Agreement on Civilian Implementation of the Peace Settlement; and considering in particular Article II.1.(d) of the last said Agreement, according to the terms of which the High Representative shall “Facilitate, as the High Representative judges necessary, the resolution of any difficulties arising in connection with civilian implementation”;

Recalling paragraph XI.2 of the Conclusions of the Peace Implementation Conference held in Bonn on 9 and 10 December 1997, in which the Peace Implementation Council welcomed the High Representative’s intention to use his final authority in theatre regarding interpretation of the Agreement on the Civilian Implementation of the Peace Settlement in order to facilitate the resolution of any difficulties as aforesaid “by making binding decisions, as he judges necessary” on certain issues including (under sub-paragraph (c) thereof) “measures to ensure implementation of the Peace Agreement throughout Bosnia and Herzegovina and its Entities”;

Recalling further Article I:1 of the said Annex 10, referring explicitly to the promotion of respect for human rights and the return of displaced persons and refugees;

Considering the emphasis placed by the Peace Implementation Council on accelerating refugee return and on ensuring full and non-discriminatory implementation of the property laws of Bosnia and Herzegovina;

Considering further the Declaration of the Peace Implementation Council of 24 May 2000, which emphasised the need for harmonisation of property legislation in the two Entities with a vigorous drive by OHR, OSCE, UNHCR and UNMIBH to ensure respect for and understanding of individual rights to return and the establishment of the Rule of Law;

Conscious that the existence of a different legal situation in two Entities and different treatment of citizens of Bosnia and Herzegovina, as it has already been established by the Human Rights Chamber in decisions concerning the implementation of the CRPC decisions, could result in discriminatory treatments and contravene the European Convention on Human Rights and Fundamental Freedoms, which is an integral part of the Constitution of Bosnia and Herzegovina;

Noting that the Law on the Implementation of the Decisions of the Commission for Real Property Claims of Displaced Persons and Refugees (Official Gazette of the Federation of Bosnia and Herzegovina, Nos. 43/99, 51/00 and 56/01) need to be amended in order to ensure greater harmonization of the property laws of Bosnia and Herzegovina;

Having taken into account all the matters aforesaid, the High Representative hereby issues the following

DECISION

Enacting the Law on Amendments to the Law on the Implementation of the Decisions of the Commission for Real Property Claims of Displaced Persons and Refugees of the Federation of Bosnia and Herzegovina

The Law which follows and which forms an integral part of this Decision, shall enter into force as provided for in Article 7 thereof on an interim basis, until such time as the Parliament of the Federation of Bosnia and Herzegovina adopts this Law in a due form, without amendment and with no conditions attached.

This Decision shall come into effect forthwith and shall be published without delay in the Official Gazette of the Federation of Bosnia and Herzegovina.

Sarajevo, 15 May 2003

*Paddy Ashdown
High Representative*

**LAW ON AMENDMENTS TO THE LAW ON IMPLEMENTATION OF THE DECISIONS OF THE COMMISSION
FOR REAL PROPERTY CLAIMS OF DISPLACED PERSONS AND REFUGEES**

Article 1

In Article 4, paragraph 3 of the Law on Implementation of the Decisions of the Commission for Real Property Claims of Displaced Persons and Refugees (Official Gazette of the Federation of Bosnia and Herzegovina, Nos. 43/99, 51/00 and 56/01) the words “the operative part of the decision” shall be replaced with words: “the preamble”.

Article 2

In Article 7, new paragraphs 7 and 8 shall be added to read as follows:

“In case a person claims a legal interest in the property or apartment at issue which was acquired after the date referred to in the operative part of the Commission decision and can show a valid contract on exchange or transfer of rights, the competent administrative organ shall suspend proceedings and shall refer the parties to the competent court according to the provisions of the Law on Administrative Procedures (Official Gazette of the Federation of Bosnia and Herzegovina, No. 2/98) regulating preliminary issues, in order to rule on the allegation.

Exceptionally, in the case where a person claims a legal interest in the property or apartment at issue which was acquired after the date referred to in the operative part of the Commission decision, in which the competent administrative organ issued a conclusion on permission of enforcement prior to the date of entry into force of this Law and that has not yet been enforced, the competent administrative organ shall ex officio suspend enforcement proceedings pending a final judicial decision on the matter, under the condition that an interested party provides evidence that he/she has initiated proceedings before the competent court and can show a valid contract on exchange or transfer of rights.”

Article 3

In Article 10, paragraph 1, a new text shall be added to read as follows:

“The regularity of the Commission decision may be reviewed only through the reconsideration procedure referred to in Article 11 of this Law”.

Paragraph 2 of this Article shall be deleted.

Article 4

In Article 12, paragraph 1, the words “referred to in paragraph 2 of Article 10 of the Law” shall be deleted.

Article 5

Article 12a shall be deleted.

Article 6

In Article 13, paragraph 2, a new text shall be added to read as follows:

“Where one of the transferred properties is located in the territory of another republic of the former SFRY, the burden of proof shall lie upon the party claiming that the transfer of property was not conducted voluntarily and in

accordance with the Law to demonstrate that the status of the parties prior to the transfer of property shall be restored.”

Article 7

This Law shall enter into force on the eighth day after its publication in the Official Gazette of the Federation of Bosnia and Herzegovina.