Decision Enacting The Law On Amendments To The Law On The Cessation Of Application Of The Law On The Use Of Abandoned Property (RS)

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 need to implement in the most efficient and equitable manner legislation concerning repossession of property throughout Bosnia and Herzegovina, and to ensure that the same is undertaken in a harmonised manner in each Entity;

Conscious that after months of negotiation the Entity officials responsible for refugee and housing issues have been unable to reach agreement on the specific provisions necessary for harmonisation as aforesaid, and that the deadline of 15 November 2001 as set by the Entities at the Teslic Property Conference for full harmonization has passed;

Noting that the Ministry for Human Rights and Refugees of Bosnia and Herzegovina has requested action by the Office of the High Representative to harmonise Entity legislation governing the repossession of property in order to safeguard basic human rights and expedite refugee return.

Having considered and borne in mind all the matters aforesaid, I hereby issue the following:

DECISION

enacting the Law on Amendments to the Law on the Cessation of Application of the Law on the Use of Abandoned Property.

The Law which follows shall enter into force as provided for in article 35 thereof on an interim basis, until such time as the National Assembly of the Republika Srpska adopts this Law in due form, without amendment and with no conditions attached.

ON AMENDMENTS TO THE LAW ON THE CESSATION OF APPLICATION OF THE LAW ON THE USE OF ABANDONED PROPERTY

Article 1

In Article 1, Paragraph 3 of the Law on the Cessation of Application of the Law on Use of Abandoned Property (Official Gazette of the Republika Srpska, 38/98, 12/99, 31/99) in its amended form, hereinafter referred to as the "Law", in the second sentence the word "temporary" shall be replaced by word "current".

Paragraph 4 shall be deleted.

Article 2

After Article 1, a new Article 1a shall be inserted as follows:

"For the purposes of this Law, the standard of alternative accommodation provided to temporary users entitled to it under this Law shall be one or more rooms which provide shelter to the user from adverse weather conditions and protects his or her furniture from damage, with a minimum of 5 square meters/person. Such accommodation may be in the form of

business facilities or a co-tenancy.”

Article 3

In Article 2, Paragraph 3, after the words “on use to”, the words “the apartment” shall be deleted and the words “or an extension of temporary use of the apartment, in accordance with the provisions of this Law” shall be inserted.

Article 4

After Article 2, a new Article 2a shall be inserted as follows:

“Article 2a.

The provisions of this Law shall also apply to contracts on exchange of apartments, where the exchange took place between 1 April 1992 and 19 December 1998 in accordance with the Law on Housing Relations (RS OG 19/93, 22/93, 12/99 and 31/99) (hereinafter “ZOSO”).

In the event that each party to the contract on exchange filed a claim for repossession before the expiry of the deadline set out in Article 16, the competent authority shall process the claims according to this Law. Notwithstanding, the competent authority in each municipality shall deem the exchange valid, if both parties give a statement reconfirming the contract on exchange, and shall revalidate the contracts on use pursuant to Article 27 paragraph 2, point 4 of this Law.

In the event that neither party to the contract on exchange filed a claim for repossession before the expiry of the deadline set out in Article 16, the competent authority in each municipality shall revalidate the contracts on use

pursuant to Article 27 paragraph 2, point 4 of this Law.

In the event that only one party to the contract on exchange filed a claim for repossession before the expiry of the deadline set out in Article 16, the competent authority shall inform in writing the corresponding competent authority in the municipality where the exchanged apartment is located of the claim. The receiving competent authority shall then deem a claim to have been filed, before the expiry of the deadline set out in Article 16, for the exchanged apartment within its jurisdiction and process the claim according to the law.

In case of a dispute as to the validity of the contract on exchange, the competent authority shall suspend proceedings and shall refer the parties to the competent court according to the provision of the Law on General Administrative Procedures (SFRJ OG 47/86; taken over by Article 12 of the Constitutional Law on Implementation of the Constitution of the Republika Srpska, RS Official Gazette, No. 21/92) regulating preliminary issues, in order to rule on the allegation. Notwithstanding the provisions of the Law on Civil Procedures (SFRJ OG 4/77; taken over by Article 12 of the Constitutional Law on Implementation of the Constitution of the Republika Srpska, RS Official Gazette, No. 21/92), the burden of proof shall lie upon the party claiming to have acquired rights to the apartment through the contract on exchange to establish that the transaction was conducted voluntarily and in accordance with the law. Where one of the exchanged apartments is located in the territory of another republic of the former SFRY, the burden of proof shall lie upon the party claiming that the contract on exchange was not conducted voluntarily and in accordance with the law to demonstrate that the status of the parties prior to the exchange shall be restored.”

Article 5

In Article 6, Paragraph 3 shall be deleted.

Article 6

In Article 8, Paragraph 6, after the word “Procedures”, a period shall be inserted and text “(SFRY Official Gazette, No 47/86; taken over by Article 12 of the Constitutional Law on Implementation of the Constitution of the Republika Srpska, RS Official Gazette, No. 21/92)” shall be deleted.

Article 7

Article 9 shall be amended as follows:

“The competent authority of the Ministry of Refugees and Displaced Persons shall be obliged to issue a decision to the claimant within 30 days from the date of receipt of the claim for repossession of real property. The claim shall be solved (rjesen) in the chronological order in which it was received, unless specified otherwise in law.”

Article 8

In Article 11, Paragraph 1, new Points 8 and 9 shall be inserted as follows:

“8. an explicit warning that the current user will be subject to prosecution under the Criminal Code if he or she removes objects from, or otherwise damages, the property, and;

9. an explicit warning to a current user who is a multiple occupant that he or she is subject to the fines set out in Article 37, Paragraph 3 of this Law”

The current Paragraphs 2 – 6. shall be deleted.

Article 9

After Article 11, a new Article 11a shall be inserted as follows:

“Article 11a.

The deadline for vacating the property, referred to in Article 11, Paragraph 1, Point 7 of this Law shall be 15 days from the date of delivery of the decision and the decision on entitlement to accommodation under Article 11, Paragraph 1, Point 5 of this Law shall be negative, unless the current user is a temporary user as defined in Article 1, Paragraph 3 of this Law and:

1. The temporary user is not a multiple occupant, as defined in Articles 24a and 24b of this Law; and:
2. The temporary user left his/her apartment or residential private property in the territory of Bosnia & Herzegovina between 30 April 1991 and 19 December 1998; and:

1. In the case that the apartment or residential private property s/he left is occupied, s/he or a member of his/her 1991 family household has applied to the competent administrative authority, court or the Commission for Real Property Claims of Displaced Persons and Refugees (hereinafter, CRPC) for repossession of that apartment within all deadlines prescribed by law, or for repossession of that residential private property within 60 days of this provision coming into force and is awaiting a decision on that claim; or;

2. In the case that a decision on a claim for repossession

or CRPC certificate has been issued with respect to the apartment or residential private property s/he left, s/he or a member of his/her 1991 family household has requested enforcement of that decision or CRPC certificate within 60 days of this provision coming into force or within 60 days of being legally entitled to seek enforcement, whichever is later; or

3. In the case that the apartment or residential private property s/he left is damaged or destroyed, s/he or a member of his/her 1991 family household has applied for return and reconstruction or is awaiting reconstruction assistance.

In case the current user fulfills the criteria set out in Paragraph 1 of this Article, the deadline for vacating the apartment shall be not more than 90 days from the date of the delivery of the decision. If a temporary user ceases to fulfill the conditions in this paragraph and a decision setting out a 90-day deadline to vacate has already been issued, the competent authority *ex officio* shall immediately issue a new decision specifying a deadline to vacate 15 days from the date of its delivery and then a conclusion on enforcement.

In exceptional circumstances, the deadline referred to above may be extended by up to one year if the body responsible for providing another accommodation in accordance with this Law provides detailed documentation regarding the lack of available accommodation to the Ministry of Refugees and Displaced Persons, which shall be agreed upon by the Office of the High Representative. In each individual case, the requirements of the European Convention on Human Rights and its Protocols must be met, and the owner, possessor or user

shall be notified of the decision to extend the deadline and the basis for the decision 30 days before the deadline has expired.

The current user shall be required to demonstrate that s/he meets the conditions for entitlement to alternative accommodation under this Law; including providing claim or decision numbers for the repossession of the current user's 1991 home. If the current user cannot demonstrate that s/he meets these conditions, the competent authority shall proceed in accordance with the *Law on General Administrative Procedures* in order to determine relevant facts.

The owner, possessor or user may immediately reoccupy real property that is vacant.

In case of the return of arable land into possession, the time limit for its handing over may be extended, as an exception, until the harvest is collected."

Article 10

In Article 12, new Paragraphs 3 and 4 shall be inserted as follows:

"In the event of an appeal, the competent authority shall retain copies of documents or take any other steps as necessary to ensure that the decision can be executed, notwithstanding the initiation of an appeal. If an appeal against a positive decision is not determined within the time period specified in the *Law on General Administrative Procedures*, the decision of the first instance body, and therefore the claimant's legal right to the real property, shall be deemed to be confirmed.

In case the responsible second instance body annuls the first instance decision, the annulment shall be considered partial under Article 239, paragraph 3 of the *Law on General Administrative Procedures*, such that the annulment shall be related only to the decision on the rights of the current occupant unless there are grounds to annul the decision on the right of the claimant. If the competent authority again confirms the property right of the claimant, the deadline set for vacating the property pursuant to Article 11, paragraph 1, point 7 of this Law shall run from the date of delivery of the original decision that was partially annulled."

Article 11

In Article 13, Paragraph 1, the words "for Real Property Claims of Displaced Persons and Refugees (Annex 7 to the General Framework Agreement of Peace in Bosnia and Herzegovina, hereinafter referred to as the Commission)" shall be deleted.

Article 12

In Article 14, Paragraph 1, the first sentence shall be amended as follows:

"The occupancy right holder of an abandoned apartment or a member of his or her family household as defined in Article 6 of the ZOSO (hereinafter the "occupancy right holder") shall have the right to return to the apartment in accordance with Annex 7 of the General Framework Agreement for Peace in Bosnia and Herzegovina."

Article 13

In Article 15, Paragraph 1 shall be amended as follows:

"The occupancy right holder as defined in Article 14, Paragraph 1, of this Law shall be entitled to file a claim for

repossession of the apartment”.

Article 14

In Article 16, Paragraph 1, the word “twelve” shall be replaced by the word “sixteen”.

Article 15

Article 17 shall be amended as follows:

“The competent authority of the Ministry of Refugees and Displaced Persons shall decide on the claim for the repossession of the apartment by the occupancy right holder within 30 days from the date of receipt of the claim. The claim shall be solved (rjesen) in the chronological order in which it was received, unless specified otherwise in law.

The competent authority shall not reject a claim on the basis of provisions of the ZOSO, other than for failing to fall within the definition of member of household set out in Article 6 of the ZOSO. The competent authority also shall not reject a claim on the basis of a foreign citizenship acquired by the claimant since 30 April 1991.”

Article 16

Article 18, Paragraph 1 shall be amended as follows:

“The decision on repossession of the apartment by the occupancy right holder shall contain:

1. a decision confirming that the claimant is the occupancy right holder;

2. a decision on repossession of the apartment by the

occupancy right holder if there is a temporary user in the apartment, or if the apartment is vacant or occupied without legal basis;

3. in cases where there is a current user, a decision on whether the current user is using the real property without legal basis (‘illegal user’) or is a legal temporary user;

4. a decision on termination of the right of temporary use of the apartment if there is a temporary user of the apartment;

5. a time limit for vacating the apartment by a current user or another person in possession of the apartment;

6. a decision concerning whether the temporary user is entitled to alternative accommodation in accordance with this law.

7. an explicit warning that the current user will be subject to prosecution under the Criminal Code if he or she removes objects from, or otherwise damages, the apartment, and;

8. an explicit warning to a current user who is a multiple occupant that he or she is subject to the fines set out in Article 37, Paragraph 3 of this Law.”

The current Paragraphs 2 – 6 shall be deleted.

Article 17

After Article 18, a new Article 18a shall be inserted as

follows:

“Article 18a

The deadline for vacating the apartment, referred to in Article 18, Paragraph 1, Point 5 of this Law shall be 15 days from the date of delivery of the decision and the decision on entitlement to accommodation under Article 18, Paragraph 1, Point 6 of this Law shall be negative, unless the current user is a temporary user as defined in Article 1, paragraph 3 of this Law and:

1. The temporary user is not a multiple occupant, as defined in Articles 24a and 24b of this Law; and:

2. The temporary user left his/her apartment or residential private property in the territory of Bosnia & Herzegovina between 30 April 1991 and 19 December 1998; and:

1. In the case that the apartment or residential private property s/he left is occupied, s/he or a member of his/her 1991 family household has applied to the competent administrative authority, court or CRPC for repossession of that apartment within all deadlines prescribed by law, or for repossession of that residential private property within 60 days of this provision coming into force and is awaiting a decision on that claim; or

2. In the case that a decision on a claim for repossession or CRPC certificate has been issued with respect to the

apartment or residential private property s/he left, s/he or a member of his/her 1991 family household has requested enforcement of that decision or CRPC certificate within 60 days of this provision coming into force or within 60 days of being legally entitled to seek enforcement, whichever is later; or

3. In the case that the apartment or residential private property s/he left is damaged or destroyed, s/he or a member of his/her 1991 family household has applied for return and reconstruction or is awaiting reconstruction assistance.

In case the current user fulfills the criteria set out in Paragraph 1 of this Article, the deadline for vacating the apartment shall be not more than 90 days from the date of the delivery of the decision. If a temporary user ceases to fulfill the conditions in this paragraph and a decision setting out a 90-day deadline to vacate has already been issued, the competent authority *ex officio* shall immediately issue a new decision specifying a deadline to vacate 15 days from the date of its delivery and then a conclusion on enforcement.

In exceptional circumstances, the deadline referred to in Paragraph 2 of this Article may be extended by up to one year if the body responsible for providing alternative accommodation on the territory of which the temporary user of the apartment had the last domicile or residence provides detailed documentation regarding the lack of available housing for provision of appropriate accommodation the Ministry for Refugees and Displaced Persons; which shall be agreed upon by the Office of the High Representative. In each individual case, the requirements of the European Convention on Human

Rights and its Protocols must be met, and the occupancy right holder shall be notified of the decision to extend the deadline and the basis for the decision 30 days before the deadline has expired.

The current user shall be required to demonstrate that s/he meets the conditions for entitlement to alternative accommodation under this Law; including providing claim or decision numbers for the repossession of the current user's 1991 home. If the current user cannot demonstrate that s/he meets these conditions, the competent authority shall proceed in accordance with the *Law on General Administrative Procedures* in order to determine relevant facts.

The occupancy right holder may immediately reoccupy an apartment that is vacant.

In no event shall failure of the competent authority to meet its obligations to provide alternative accommodation operate to delay the ability of the occupancy right holder to enter into possession of the apartment."

Article 18

In Article 19, new Paragraphs 3 and 4 shall be inserted as follows:

"In the event of an appeal, the competent authority shall retain copies of documents or take any other steps as necessary to ensure that the decision can be executed, notwithstanding the initiation of an appeal. If an appeal against a positive decision is not determined within the time period specified in the *Law on General Administrative Procedures*, the decision of the first instance body, and therefore the claimant's occupancy right to the apartment,

shall be deemed to be confirmed.

In case the responsible second instance body annuls the first instance decision, the annulment shall be considered partial under Article 239, paragraph 3 of the *Law on General Administrative Procedures*, such that the annulment shall be related only to the decision on the rights of the current occupant unless there are grounds to annul the decision on the right of the claimant. If the competent authority again confirms the property right of the claimant, the deadline set for vacating the property pursuant to Article 18, paragraph 1, point 5 of this Law shall run from the date of delivery of the original decision that was partially annulled."

Article 19

Article 21 shall be amended as follows:

"The competent authority may temporarily allocate for use as alternative accommodation by a temporary user entitled under this Law an apartment in cases where a decision has been issued under Article 17 of this Law and delivered to the occupancy right holder in accordance with law, and where:

1. the current user voluntarily vacates the apartment within the deadline stated in the Decision and the occupancy right holder, a member of his/her 1991 household, or an authorised proxy fails to collect the keys of the apartment within 30 days from the day on which s/he receives written notification from the competent authority that the apartment is vacant; or

2. the current user vacated the apartment following compulsory enforcement and the occupancy right holder, a member of his/her 1991 household, or an authorised proxy fails to collect the keys of the vacated apartment within 30 days from the day on which s/he receives written notification from the

competent authority that the apartment is vacant.

In case the current user does not vacate the apartment within the deadline stated in the Decision and the occupancy right holder fails to initiate enforcement proceedings within 30 days after expiration of the deadline for the current user to vacate, the competent authority shall *ex officio* evict the current user if s/he is not entitled to alternative accommodation pursuant to this Law.

The competent authority may then temporarily allocate the apartment for use by the current user, if they are entitled to alternative accommodation under this Law, or to another temporary user entitled to alternative accommodation under this Law. The competent authority shall set out fully for the claimant, in any decision on enforcement or notification that the apartment is vacant and sealed, her/his obligation to collect the keys or face the possibility of the use of the apartment for alternative accommodation pursuant to this Article.

Only once the occupancy right holder, a member of his/her 1991 household, or an authorised proxy collects the keys, shall the provisions of the ZOSO, with the exceptions of Articles 44, Paragraph 1(6), Article 47 and Article 49, apply to the occupancy right."

Article 20

After Article 21, a new Article 21a shall be inserted as follows:

"Article 21a

The competent authority must allocate the apartment referred

to in Article 21 of this Law in accordance with Article 31 of this Law, and with the standard set out in Article 1a of this Law to the temporary use of a person who is:

entitled to alternative accommodation in accordance with Article 34 of this Law; and

currently a temporary user of an apartment or real property; and

required to vacate that apartment or real property following a decision on a claim for repossession under this Law, or a request for enforcement of a decision of the CRPC.

The temporary permit shall not be extended if the occupancy right holder, a member of his/her 1991 household or an authorised proxy requests to collect the keys. The competent authority shall immediately evict the temporary user at the end of the current 6-month period and hand the keys over to the occupancy right holder, a member of his/her 1991 household or an authorised proxy.

If a cancellation procedure has been initiated before the court, and has not yet resulted in a final decision, the procedure shall be suspended. The competent authority shall send notice to the claimant that s/he, a member of his/her 1991 family household or an authorised proxy may collect the keys and repossess the apartment.

If the occupancy right holder, a member of his/her 1991 household or an authorised proxy does not request to collect the keys before the expiry of the deadline specified in Article 31 of this Law, the disposal of the apartment shall be regulated pursuant to Article 22 of this Law.”

Article 21

Article 22 shall be amended as follows:

“Upon the cancellation of the occupancy right under Article 16 of this Law, including an occupancy right for which a claim for repossession was rejected or withdrawn, the allocation right holder may regain control over the apartment only once the deadline specified in Article 31 of this Law for the administration by the Ministry for Refugees and Displaced Persons of such apartments has expired.

The return of apartments under the administration of the Ministry for Refugees and Displaced Persons to the allocation right holder upon the expiry of the deadline specified in Article 31 of this Law, shall be regulated by an instruction.

Any allocation or other use of an apartment in contravention of Paragraph 1 of this Article and Article 31 of this Law is null and void.”

Article 22

In Article 23, Paragraph 1, the words “for Real Property Claims of Displaced Persons and Refugees (Annex 7 to the General Framework Agreement of Peace in Bosnia and Herzegovina, hereinafter referred to as the Commission)” shall be deleted.

Article 23

In Article 24, Paragraph 2 shall be amended as follows:

“A report shall be made on the return of the real property or apartment and on the reinstatement of the owner or user into possession of the property or apartment. The report shall

contain, among other things, a detailed description of the current state of the apartment and its contents."

After Paragraph 2, new Paragraphs 3 and 4 shall be inserted as follows:

"If minutes are unavailable from the time when the real property or apartment was abandoned, the competent authority shall conduct an inspection of the real property or apartment at the time the decision is made pursuant to Article 9 or 17 of this Law. The authorities are obliged, pursuant to their duties under the Criminal Code, to seek the prosecution of a current user who illegally removes property or fixtures from the real property or apartment, or who willfully causes damage to the real property or apartment, when s/he vacates the real property or apartment either voluntarily or by eviction. The competent authority shall include a notice or warning to a current user about the aforesaid criminal sanctions for such action pursuant to Article 11, Paragraph 1, Point 8 or Article 18, Paragraph 1, Point 7 of this Law.

The competent authority shall record such information in the minutes, and distribute the information recorded therein, as well as other information regarding repossessed or vacant and sealed apartments, as is defined by instruction of the Ministry of Refugees and Displaced Persons. Information distributed and received in this manner is to be stored, processed, distributed and used only in a manner consistent with and necessary to the purpose of promoting property law implementation in accordance with the General Framework Agreement for Peace."

Article 24

In Article 24a, Paragraph 4, shall be amended as follows:

“A multiple occupant includes, among others, a current user who uses a real property or an apartment and who:

1. holds an occupancy right to or is using more than one apartment; or

2. has a family house or apartment in the same city, in cases where the family house or apartment is sufficiently intact, or can be made so with minimal repairs, to provide for basic living conditions (basic protection against weather; access to water and electricity; a heating source; basic privacy; and security of belongings); or

3. is in possession of the house or apartment in which s/he lived on 30 April 1991 (‘1991 home’); or where a member of his/her family household is in possession of his/her 1991 home; in cases where his/her 1991 home is sufficiently intact, or can be made so with minimal repairs, to provide for basic living conditions; or

4. has already been provided with alternative accommodation by a competent authority; or

5. has a member of his/her family household who has accommodation anywhere on the territory of Republika Srpska or in the same city or municipality as the 1991 home anywhere else in the territory of Bosnia and Herzegovina; or

6. has a legal right to return into possession of his/her

1991 home; and his/her 1991 home is sufficiently intact, or can be made so with minimal repairs, to provide for basic living conditions, as explained in this paragraph; and it is possible for him/her to return into possession of his/her 1991 home; or

7. whose accommodation needs are otherwise met, as defined in Article 24b of this Law."

After Paragraph 4, a new Paragraph 5 shall be inserted as follows:

"The minimum standard for alternative accommodation set out in Article 1a of this Law shall only apply to Points 4, 5, and 7 of Paragraph 4 of this Article."

The current Paragraph 5 becomes the new Paragraph 6.

After Paragraph 6, a new Paragraph 7 shall be inserted as follows:

"For the purposes of this Article, "family household" shall mean all members of the family household as of 30 April 1991; or, if they were not members of the family household as of 30 April 1991, any spouse, parents, children; or other persons registered together with a temporary user."

Article 25

After Article 24a, a new Article 24b shall be inserted as follows:

"Article 24b

A temporary user whose accommodation needs are otherwise met shall include, among others:

1. a temporary user who voluntarily sold the real property in which s/he lived on 30 April 1991; or

2. a temporary user who voluntarily exchanged the real property or apartment in which s/he lived on 30 April 1991 and who is in possession of the apartment or real property or has transferred it to a third party; or

3. a temporary user who refuses alternative accommodation offered in writing by the competent authority, or refuses assistance in the reconstruction of his/her residence of 30 April 1991. The competent authority shall inform the temporary user of the consequence of refusing alternative accommodation or reconstruction assistance; or

4. a temporary user who resides in the same municipality as s/he did in 1991, unless s/he can provide evidence as to why he or she cannot return to his or her 1991 home; or

5. a temporary user who was a sub-tenant in 1991; or

6. a temporary user who has sufficient disposable income, including assets, to provide for his/her own accommodation. Sufficient disposable income shall be defined as one-fourth of the applicable breadbasket, as calculated by the competent statistical institute, per current family household member, plus 200 KM; or

7. a temporary user, in a case where the owner or occupancy right holder provides him/her with a different accommodation as a tenant within the same municipality, unless the temporary user agrees in writing to another municipality elsewhere, for at least six months. The standard of accommodation shall be that set out in Article 1a of this Law; or

8. a temporary user who left his/her apartment or residential private property in the territory of Bosnia and Herzegovina between 30 April 1991 and 19 December 1998 and there was a claim for repossession of that apartment or residential private property filed, if the claim for repossession is subsequently withdrawn; or

9. a temporary user who has been allocated any state-owned, including formerly socially-owned, land since 6 April 1992, more than 150 days from the date the allocation issued pursuant to a waiver granted by the Office of the High Representative, unless s/he cancels the allocation within 60 days of the date of the confirmation or of the date this provision comes into force, whichever date is the later; or

10. a temporary user who, unless a waiver application is pending before the Office of the High Representative, has been allocated any state-owned, including formerly socially-owned, land since 6 April 1992, unless s/he cancels the allocation within 60 days of the date this provision comes into force; or

11. a temporary user who has received housing credits, building materials, or any other form of housing

construction/purchase assistance, more than 150 days from the date of receipt of the assistance or the date of receipt of the first installment of the assistance, unless s/he cancels the assistance within 60 days of receipt of the assistance, or the first installment of the assistance, or within 60 days of the date this provision comes into force, whichever date is the later.

For the purposes of points 9 to 11 of Paragraph 1 of this Article, the competent authority shall inform the temporary user of the consequences of not canceling the land allocation or housing construction/purchase assistance, whichever is applicable.

For the purpose of this article, the term ‘temporary user’ shall include persons defined in Article 24a, Paragraph 7 of this Law.”

Article 26

Article 27 shall be amended as follows:

“Where the temporary user has the right to a new contract on use of apartment under Article 2 Paragraph 3 of this Law, the competent authority of the Ministry for Refugees and Displaced Persons shall be authorised to conclude the contract on use of apartment in accordance with the ZOSO.

The temporary user shall have the right to a new contract on use of the apartment under Article 2 Paragraph 3 of this Law if s/he obtained the occupancy right in any of the following circumstances:

1. through transfer of the occupancy right to him/her as a

spouse or as a member of the family household following the death of the previous occupancy right holder, in accordance with the ZOSO; or

2. through transfer following his/her divorce from the previous occupancy right holder; or

3. s/he was the first occupancy right holder of the apartment following its construction; or

4. through a valid contract on exchange of apartments, in accordance with the ZOSO and Article 2a of this Law.

In no case shall the temporary user have the right to a new contract on use of the apartment under Article 2, Paragraph 3 of this Law if s/he is a multiple occupant as defined in Article 24a, Paragraph 4, Points 1 to 6 or Article 24b, Paragraph 1, Points 1, 2, 8, 9, 10 or 11 of this Law or if s/he is not entitled to alternative accommodation under Article 11a, Paragraph 1, Points (2) (a) or (b) or Article 18a, Paragraph 1, Points (2) (a) or (b) of this Law.

As an exception to Article 24a, Paragraph 7 and Article 24b, Paragraph 3 of this Law, the criteria set out in the previous Paragraph of this Article shall apply only with regard to the temporary user and his or her family household as of 30 April 1991 for the purposes of this Article.

Any revalidation of a contract on use or allocation concluded in contravention of this Article shall be void.

The procedure by which the temporary user's right to revalidate a contract on use of the apartment is determined shall be regulated by instruction of the RS Ministry for Refugees and Displaced Persons within 30 days of this Law coming into force. The competent public defender shall supervise the procedure and control the conformity of revalidations of contracts on use and allocations, as well as purchases of apartments based on such revalidations or allocations, with this Article, pursuant to his/her duties as set out in the Law and by instruction."

Article 27

In Article 27a, Paragraph 1, in the second sentence the word "previous" shall be deleted.

After Paragraph 1, new Paragraphs 2 and 3 shall be inserted as follows:

"Where the court has awarded compensation to the person referred to in Paragraph 1, the occupancy right holder may recover that sum from the competent authority or allocation right holder under the *Law on Obligations*.

The competent authority shall be liable for all damage to the apartment from the time it was abandoned by the occupancy right holder until the time it is returned to the occupancy right holder or a member of his/her 1991 household pursuant to this law. Any repairs carried out by the occupancy right holder or a member of his/her 1991 household to restore the apartment to the state it was in prior to its abandonment shall be deemed "funds with which the holder of occupancy rights removed war damage" for the purposes of the *Law on Privatization of State Owned Apartments* (RS OG 11/00, 18/01 and 35/01)."

Article 28

Article 31 shall be amended as follows:

“An apartment from Article 22 of this Law shall be administered by the Ministry for Refugees and Displaced Persons and used for the purpose of temporary use until all claims for the repossession of private property, made within 90 days of this provision coming into force, and for socially-owned property, made as defined in Article 16 of this Law, in that municipality are resolved. Upon expiration of this period, the apartment shall, after six months, be returned to the control of the allocation right holder pursuant to Article 22 of this Law. This paragraph shall apply to all apartments, whether or not they were declared abandoned.

The right to a temporary use of an apartment in terms of the previous paragraph shall be given to a person referred to in Article 35 of this Law, in accordance with the standard set out in Article 1a of this Law.

A temporary permit granted under this Article shall be given for a period of not longer than six months. The temporary occupant referred to in Paragraph 3 of this Article may request extension of the time limit for the use of apartment, to expire at the latest by the deadline specified in Paragraph 1.

In deciding on the claim for extension of the temporary permit, the competent authority must determine in a procedure whether the temporary user continues to be entitled to alternative accommodation pursuant to this Law. The competent authority can either issue a new temporary permit or indicate on the previous permit that the permit has been extended for another six months, including the expiration date of the permit. If the competent authority decides that the temporary user is not entitled to alternative accommodation, it shall order the temporary user to vacate the apartment within 15

days.

If the temporary user at any time ceases to meet the conditions for entitlement to alternative accommodation in accordance with the Law, the competent authority shall *ex officio* issue a decision canceling the temporary permit and ordering the temporary user to vacate the apartment within 15 days.”

Article 29

In Article 32, after Paragraph 1 a new Paragraph 2 shall be inserted as follows:

“As an exception to Article 16 of this Law, the occupancy right holder may file a claim for repossession of a destroyed or damaged apartment within 6 months of this Law coming into effect.”

Article 30

In Article 33, Paragraph 1 shall be amended as follows:

“A person using a real property or an apartment without legal basis shall be evicted, at the latest within 15 days of the day of issuance of the decision, and the owner, possessor or user of the real property or the occupancy right holder of the apartment and/or any member of his/her household shall be entitled to repossess the real property or apartment without any restriction or limitation. The body responsible for providing alternative accommodation shall not be obliged to provide alternative accommodation under this Law to an illegal user.

The competent authority shall *ex officio* pass a decision to

vacate a real property or apartment immediately, and at the latest within 15 days of the issuance of the decision, in cases where the current user is an illegal occupant. The affected person has the right to file an appeal against the decision, but the appeal does not suspend the eviction."

The current Paragraph 2 becomes a new Paragraph 3.

Article 31

In Article 34, Paragraph 3 shall be amended as follows:

"In accordance with the previous paragraph, multiple occupants, as defined in Articles 24a and 24b of this Law, and temporary users who must vacate within 15 days from the date of the delivery of a decision under Article 11a or Article 18a of this Law, among others, shall not be entitled to alternative accommodation."

Article 32

Article 35 shall be amended as follows:

"A temporary user of a real property or an apartment who is required to vacate the real property or an apartment and is entitled to alternative accommodation in accordance with this Law shall be provided with alternative accommodation in accordance with this Law by the competent authority on the territory of which she/he had his/her latest residence. The temporary user shall be obliged to vacate the real property within the deadline set under Article 11 of this Law; or vacate the apartment within the deadline set under Article 18 of this Law.

As an exception, if the temporary user's 30 April 1991 house

or apartment is uninhabitable or occupied, on the written request of the temporary user and pending the reconstruction or vacation of the 30 April 1991 house or apartment, the authority responsible for providing temporary accommodation shall be the competent authority responsible for housing affairs in the municipality where the 30 April 1991 house or apartment is located."

Article 33

Article 36 shall be amended as follows:

"In case that the Ministry for Refugees and Displaced Persons is unable to provide alternative accommodation, other responsible bodies including the Ministry for Urban Planning, the Ministry for Social Welfare, the Ministry of Defence, companies, firms and Municipalities shall be obliged to make available accommodation which is at their disposal for the purposes of providing alternative accommodation under this Law."

Article 34

Article 37 shall be amended as follows:

"The competent body shall be fined 1000 to 5000 KM for the following minor offences:

1. if it violates Article 1 of this Law and continues to apply the Law on Use of Abandoned Property;

2. if it fails to accept claims as set out in Article 8 or Article 15 of this Law;

3. if it fails to take into account the presumption that persons who have left their apartments between 30 April 1991 and 19 December 1998 shall be considered to be refugees and displaced persons under Annex 7 of the General Framework Agreement for Peace in Bosnia and Herzegovina, as set out in Article 14, paragraphs 1 and 2 of this Law;

4. if it fails to order in the Decision (Article 11, Paragraph 1 or Article 18, Paragraph 1 of the Law) the vacating of the real property or apartment within 15 days in accordance with Article 33 , paragraph 1 and Article 35 , paragraph 1 of the Law;

5. if it fails to allow immediate repossession by an owner, possessor, or user of a vacant real property, as set out in Article 11, paragraph 2, or Article 18, paragraph 3 of the Law;

6. if it fails to process an eviction request according to this Law and the *Law on General Administrative Procedures*;

7. if it fails to hand over the real property or apartment in accordance with Article 24 of the Law;

8. if it fails to take the required action against a multiple occupant, as set out in Article 24a, paragraph 3, or if it fails to issue a decision according to Article 24a, paragraph 5 of the Law.

The responsible person in the competent authority shall also be fined 200 to 1000 KM for a violation of paragraph 1 of this Article.

In addition to the above, a person who is a multiple occupant, as defined:

1. in Article 24a, paragraph 4, Items 1, 2, 3, or 7 of the Law and who fails to comply with the eviction order shall be fined 500 to 5000 KM;

2. in Article 24a, paragraph 4, Items 4 to 6 of the Law and who fails to comply with the eviction order shall be fined 250 to 1000 KM.

Penalty proceedings according to paragraphs 1 to 3 of this Article shall be carried out in accordance with the Law on Minor Offences. The local competency of the Court shall be determined according to the location of the seat of the competent body which violated the provisions of this Article or the seat of the competent body where the responsible person is carrying out his/her official duties, or the permanent residence of the multiple occupant."

Article 35

This Law shall be published without delay in the Official Gazette of the Republika Srpska and shall enter into force eight days after the date of such publication.

Sarajevo, 4 December 2001

Wolfgang Petritsch

High Representative

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