Decision on the Law on Amendments to the Law on Cessation of Application of the Law on Abandoned Apartments

In Article 2, paragraph 5 of the Law On The Cessation Of Application Of The Law On Abandoned Apartments (Official Gazette of the Federation of Bosnia and Herzegovina 11/98, 38/98, 12/99, 18/99 27/99) as amended (hereinafter the 'Law'): the words 'in exchange for' shall be deleted and replaced by: 'and who subsequently received'.

Article 2

In Article 3, paragraph 3: after the words'shall be evicted', the following words shall be inserted: 'immediately or at the latest within 15 days'

Article 3

In Article 7, paragraph 1, after the second point, the following shall be inserted as a new third point: 'in cases where there is a current user, a decision on whether the current user is using the apartment without a legal basis ('illegal user') or is a legal temporary user;'. The present points 3 to 5 of this Article shall be renumbered as points 4 to 6, respectively.
In Article 7, paragraph 2: at the end of the paragraph after the words '90 days from the date of submitting the claim', the following words shall be added: 'unless a shorter deadline applies.'

In Article 7, paragraph 3: after the words, 'documented absence of available housing', the following words shall be inserted: 'which shall be agreed upon by the Office of the

High Representative’.

Article 4

In Article 11, after paragraph 2, the following new paragraphs 3, 4 and 5 shall be added:
‘Exceptionally, the competent administrative body shall, *ex officio*, or upon the request of a person who has a legal interest in the procedure, pass a decision to vacate the apartment immediately (na osnovu zahtjeva.. ili po sluzbenoj duznosti stambeni organ ce donijeti rjesenje o ispraznjenju stana..((svako moze dati inicijativu))..) in cases where the current user is a multiple occupant. The affected person has the right to file an appeal (zalba) against the decision, but the appeal does not suspend the eviction.

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

1. holds an occupancy right to or is using more than one apartment; or
2. has a family house or a privately-owned apartment in the same city, municipality or place as the apartment, in cases where the house or privately-owned apartment is sufficiently intact to provide for basic living conditions (protection against weather; water installations and sanitary fittings to an appropriate level; electricity; heating; privacy; and security of belongings); or
3. is in possession of the house or apartment in which s/he lived on 30 April 1991 (hereinafter ‘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 to provide for basic living conditions; or
4. has already been provided with alternative accommodation by a responsible body; or
5. has a member of his/her family household of 30 April

1991 who has accommodation in the same city, municipality or place; or

6. has a legal right to return into possession of his/her 1991 home; and his/her 1991 home is sufficiently intact 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 in safety and dignity.

In cases where a claim has been filed under this Law for an apartment which is vacated by a multiple occupant, and no decision has been issued at the date of vacation, the competent body shall immediately issue a decision on the claim.'

Article 5

Article 12 shall be amended as follows:
' The competent body may *ex officio* or upon the request of the allocation right holder initiate the procedure for cancelling the occupancy right before the competent court in cases where a decision has been issued under Article 7 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 fails, without good cause, to reoccupy the apartment within 90 days from the day on which s/he receives written notification from the competent body that the apartment is vacant; or
2. the current user does not vacate the apartment within the deadline stated in the Decision and the occupancy right holder fails, without good cause, to initiate enforcement proceedings within 90 days after expiration of the deadline for the current user to vacate; or
3. the current user vacated the apartment following compulsory enforcement and the occupancy right holder fails, without good cause, to reoccupy the vacated

apartment within 90 days from the day on which s/he receives written notification from the competent body that the apartment is vacant; or

4. the occupancy right holder has received written notification that the apartment is vacant, and fails to reoccupy the apartment within 90 days after circumstances constituting good cause under this Article ceased to exist.

The occupancy right holder is considered to have good cause not to reoccupy the apartment:

1. if s/he has requested the commencement of enforcement proceedings, but the apartment continues to be occupied by another party;
2. if s/he has been unable to return to the municipality in which the apartment is located due to a well-founded fear of persecution;
3. if the occupancy right holder was called up for military service;
4. if the occupancy right holder has been receiving medical treatment to the extent that reoccupying the apartment may pose significant health risks to him/her;
5. if the occupancy right holder has been convicted and is serving a prison sentence for this period;
6. if security measures are being applied to the occupancy right holder;
7. if the occupancy right holder and the members of his/her household are temporarily staying in an other place in the country or abroad on the bases stated in paragraph 1 of Article 48 of the ZOSO;
8. if the occupancy right holder’s claim was rejected by the responsible body on formal or material grounds and he/she has submitted a claim to the Commission for Real Property Claims of Displaced Persons and Refugees which has not been resolved.
9. if the apartment is damaged or destroyed so as to make

the apartment uninhabitable.

The competent body shall inform the claimant about her/his obligations under this Article in the Decision. In cases referred to in the previous paragraph of this Article, as long as these reasons last, the right of the occupancy right holder shall not be cancelled. (U slucajevima iz …stava ovog clana, dok ti razlozi traju, nosiocu stanarskog prava…pravo na koristenje stana.)'

Article 6

In Article 13, at the end of paragraph 1: the following words shall be added: 'except where Article 18d applies.'

Article 7

In Article 14, at the end of paragraph 1: the following words shall be added: ', but only in cases where the responsible body has rejected the request of the claimant on formal or material grounds, and where suspension has been requested by the Property Commission.'

Article 8

In Article 18d, paragraph 1: after the words 'in accordance with Article 5', the following words shall be added: 'or Article 12'
At the end of Article 18d, after paragraph 6, the following new paragraph 7 shall be added:

'Exceptionally, in respect of apartments at the disposal of the Federation Ministry of Defence, where an occupancy right to an apartment is cancelled in accordance with Article 5 or Article 12, or where the claim is finally rejected in accordance with this Law, the competent body of the Federation Ministry of Defence may issue a new contract on use to a temporary user of an apartment in cases where s/he is required to vacate the apartment under this Law to enable the return of a pre-war occupancy right holder or purchaser of the

apartment, provided that his/her housing needs are not otherwise met'.

Article 9

After Article 18g, insert the following new Article 18h:
'The competent administrative body shall be fined 1000 to 5000 KM for the following minor offences:

1. if it does not take into account the presumption that persons who have left their apartments between 30 April 1991 and 4 April 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 3, paragraphs 1 and 2, of the Law;
2. if it does not order the vacating of the apartment within 15 days in accordance with Article 3, paragraph 3 and 4, of the Law;
3. if it fails to process an eviction request because one of the parties filed an appeal against the prior Decision, as set out in Article 8, paragraph 3, of the Law;
4. if it fails to hand over the apartment in accordance with Article 9 of the Law;
5. if it is required to take action against a multiple occupant, as set out in Article 11, paragraph 3, or if it fails to issue a decision according to Article 11, paragraph 5, of the Law.

The responsible person in the competent administrative body 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 11, paragraph 4, Items 1 and 2 of the Law and who fails to comply with the eviction order shall be fined 100 to 500 KM;

2. in Article 11, paragraph 4, Items 3 to 6 of the Law and who fails to comply with the eviction order shall be fined 50 to 200 KM.’

Article 10

This Law shall enter into force on 28 October 1999.

Office of the High Representative